

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 121 of 2017**

(Arising out of judgment dated 9.2.2017 in Civil Suit No.6A/14 of the learned Additional District Judge, Saraipali, District Mahasamund)

- Bajrang Lal Sen S/o Shri Ganpat Sen, Aged About 49 Years R/o Ward No.12, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh

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Versus

1. A. Rajjak Dalla S/o Shri A.Sattar Dalla, Aged About 70 Years R/o Near Government Girls School, Main Road, Basna, Distt. Mahasamund, Chhattisgarh
2. Ramavatar S/o Shri Motilal Agrawal, Aged About 60 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
3. Rewashankar S/o Shri Sohan Lal Agrawal, Aged About 65 Years R/o Ward No.121, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
4. Anand Vilas S/o Shri Madhumangal Panigrahi, Aged About 48 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
5. Karnidani S/o Shri Askar Dani (Pradeep Jain), Aged About 48 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
6. Smt. Sushila Bai W/o Shri Prahallad Rai, Aged About 40 Years R/o Ward No.07, Near Santoshi Mandir Saraipali, Distt. Mahasamund, Chhattisgarh
7. Anguri Devi D/o Shri Ramesh Agrawal, Aged About 38 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
8. Narendra Kumar S/o Shri Indarmal Agrawal, Aged About 50 Years R/o Ward No.12, Near Radhakrishna Mandir Saraipali, Distt. Mahasamund, Chhattisgarh
9. Banwari Lal S/o Shri Bisambhar Dayal Agrawal, Aged About 70 Years R/o Ward No.12, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
10. Saiyyad Husain S/o Mohd. Husain, Aged About 70 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
11. Smt. Pratibha Bai Wd/o Late Manikchand Jain, Aged About 70 Years R/o Shri Roadways Premchand Jain, Station Road, Raipur, District Raipur, Chhattisgarh
12. Smt. Kaushalya Bai W/o Shri Hiralal Agrawal, Aged About 65 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh

13. Kirti Chand S/o Shri Raghunath, Aged About 60 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
14. Dinesh Kumar S/o Shri Rampratap, Aged About 50 Years R/o Ward No.12, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
15. Girdharilal S/o Shri Mohanlal, Aged About 50 Years R/o Ward No.07, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
16. Kamlesh Kumar S/o Shri Ramesh Kumar, Aged About 35 Years R/o Ward No.11, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
17. Smt. Ginnati Bai Wd/o Late Kashiram, Aged About 70 Years R/o Ward No.12, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
18. Rajesh Kumar S/o Late Kashiram Mittal, Aged About 49 Years R/o Ward No.12, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
19. Natthuram S/o Shri Ramkaran Das (Died) Through- Chaturbhuj S/o Late Natthuram Agrawal, Aged About 46 Years, R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
20. Seetaram S/o Shri Rameshwar, Aged About 70 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
21. Pawan Kumar S/o Shri Chaturbhuj, Aged About 52 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
22. Rajkishore S/o Shri Chaturbhuj, Aged About 48 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
23. Rakesh S/o Shri Babulal, Aged About 48 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
24. Vasudev S/o Shri Harilal, Aged About 54 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
25. Smt. Sushila Devi D/o Late Natthulal Agrawal, Aged About 65 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
26. Smt. Sheela Devi Wd/o Late Kishan Lal Sharma, Aged About 55 Years R/o Ward No.09, Jhilmila Check Post, Main Road Saraipali, Distt. Mahasamund, Chhattisgarh
27. Vijay S/o Shri Bajrang Agrawal, Aged About 42 Years R/o Ward No.04, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
28. Sundarlal S/o Shri Hajbihari, Aged About 60 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
29. Smt. Reetu W/o Shri Arun Agrawal, Aged About 32 Years R/o Ward No.04, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
30. Mukesh Kumar S/o Shri Ganpat Rai Agrawal, Aged About 50 Years R/o Ward No.12, Dharmshala Road, Saraipali, Distt. Mahasamund, Chhattisgarh

31. Jagatnarayan S/o Shri Nagarmal Agrawal, Aged About 65 Years R/o Ward No.10, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
32. Niranjana S/o Shri Purnchand, Aged About 50 Years R/o Ward No.07, Main Road, Near Gayatri Mandir, Saraipali, Distt. Mahasamund, Chhattisgarh
33. Nilambar S/o Shri Gangaram, Aged About 60 Years R/o Ward No.14, Saraipali, Distt. Mahasamund, Chhattisgarh
34. Rajesh Kumar S/o Shri Shyamlal, Aged About 48 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
35. Omprakash S/o Shri Lachchiram Agrawal, Aged About 65 Years R/o Ward No.10, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
36. Vibhishan S/o Shri Jagannath, Aged About 50 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
37. Abdul Hameed S/o Shri Janab A.Hai Kha, Aged About 70 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
38. Smt. Deepa W/o Shri Rajesh, Aged About 38 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
39. Mebin W/o Shri Vinay Krishna, Aged About 48 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
40. Ravindra Kumar S/o Shri Kriparam, Aged About 52 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
41. Smt. Champa Devi W/o Shri Vinod Agrawal, Aged About 45 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
42. Smt. Seema W/o Shri Kantaprasad, Aged About 43 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
43. Smt. Sarita Devi W/o Shri Ghanshyam Agrawal, Aged About 36 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
44. Dilip Kumar S/o Shri Prahlad Rai, Aged About 45 Years R/o Village Panchayat Singhoda, Tahsil Saraipali, Distt. Mahasamund, Chhattisgarh
45. Ratan S/o Shri Prahlad Rai, Aged About 45 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
46. Smt. Aarti W/o Shri Ashwani, Aged About 42 Years R/o Ward No.07, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
47. Ratanlal S/o Shri Manikchand Jain, Aged About 50 Years R/o Near Gayatri Mandir, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
48. Smt. Sikha W/o Shri Lalit, Aged About 40 Years R/o Near Gayatri Mandir, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
49. Jashwant Kumar S/o Shri Bhuneshwar, Aged About 50 Years R/o Near

Gayatri Mandir, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh

50. Smt. Aarti W/o Shri Amit, Aged About 38 Years R/o Near Gayatri Mandir, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
51. Neeraj S/o Shri Shankarlal, Aged About 45 Years R/o Near Gayatri Mandir, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
52. Suresh Kumar S/o Late Dharnujay, Aged About 48 Years R/o Near Kutela, Village Pandhi, P.S. And Tahsil Saraipali, District Mahasamund, Chhattisgarh
53. Smt. Nirmala Devi W/o Shri Shankarlal, Aged About 45 Years R/o Ward No.11, Gaown Saraipali Road, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
54. Pravin Kumar S/o Shri Shankar Lal Agrawal, Aged About 35 Years R/o Ward No.11, Gaown, Saraipali, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
55. Smt. Nirmala Devi W/o Shri Ramswarup, Aged About 48 Years R/o Ward No.11 Gaown, Saraipali Road, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
56. Smt. Indradevi W/o Shri Radheshyam, Aged About 55 Years R/o Ward No.11 Gaown, Saraipali Road, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
57. Shankarlal S/o Shri Lachchiram Agrawal, Aged About 54 Years R/o Ward No.11 Gaown, Saraipali Road, Main Road, Saraipali, Distt. Mahasamund, Chhattisgarh
58. State Of Chhattisgarh, Through The District Collector, Mahasamund, District Mahasamund, Chhattisgarh

---- Respondent

For Appellant : Shri Malay Kumar Bhaduri, Advocate.
 For Respondents 2, 3, 5, 6, 8, 10, 12, 14, 17, 18, 19, 23, 25, 27 to 31, 33, 38 to 41, 43 to 54, 56 & 57 : Shri Sanjay Agrawal, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

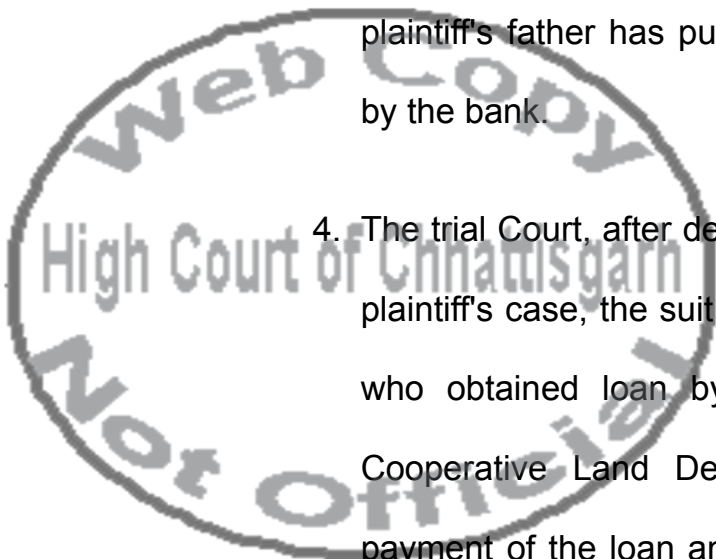
Order On Board

30/10/2017

1. This is the plaintiff's Appeal challenging the order passed by the trial Court dismissing the suit under Order 7 Rule 11 of the CPC on the

ground that the suit does not disclose any cause of action.

2. The plaintiff filed the suit for declaration of title on the plea that the subject property was purchased by his father Ganpat Ram Sen in auction conducted by the District Cooperative Land Development Bank, Saraipali (not made party in the suit).
3. Admittedly, the plaintiff has not filed any document in support of the plaint allegations either in the form of sale letter or letter of allotment issued by the Bank or the revenue record carrying entry that the plaintiff's father has purchased the property in the auction conducted by the bank.
4. The trial Court, after detailed discussion, has observed that as per the plaintiff's case, the suit property was owned by Jwala Prasad Sharma who obtained loan by mortgaging the suit land with the District Cooperative Land Development Bank, Saraipali. On default of payment of the loan amount, the said bank auctioned the mortgaged property in which the plaintiff's father was the highest bidder, therefore, he deposited the entire auction amount and was settled in possession in June, 1997. It was also observed that defendant No.37 Abdul Hamid has submitted an order passed by the Registrar, Cooperative Societies, Chhattisgarh on 30.10.2006 and 17.7.2007 by which the bank's appeal was allowed and the Deputy Registrar's order dated 29.10.2005 was set aside and consequently, the sale was not confirmed. Since confirmation was mandatory under Section 28 (3) of the CG Cooperative Agricultural Development Bank Adhinyam, 1999,



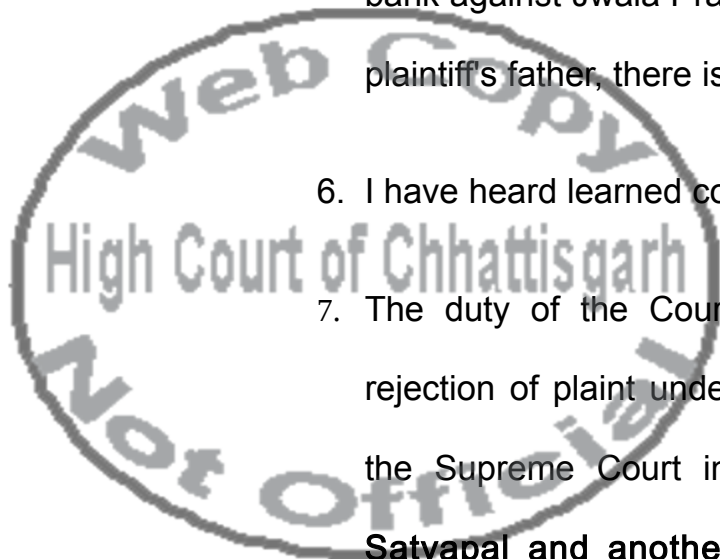
Ganpat Ram Sen was not entitled to own the land. The Second Appeal preferred by Ganpat Ram Sen was also dismissed.

5. Since under Order 7 Rule 14 CPC the plaintiff was required to submit along with the plaint the documents on which the plaint allegations are made and the relief is claimed in the suit, the trial Court has found that in the absence of any document of title in plaintiff's favour having been presented along with the plaint; apparently the property having belonged to Jwala Prasad Sharma and the sale conducted by the bank against Jwala Prasad Sharma was not confirmed in favour of the plaintiff's father, there is no cause of action for filing the suit.

6. I have heard learned counsel for the parties and perused the record.

7. The duty of the Court while considering the defendant's plea for rejection of plaint under Order 7 Rule 11 CPC has been outlined by the Supreme Court in the matter of **T. Arivandandam Vs. T.V. Satyapal and another** {AIR 1977 SC 2421} observing that if on a meaningful – not formal – reading of the plaint it is manifestly vexatious and meritless, in the sense of not disclosing a clear right to sue, the trial Court should exercise the power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clear drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10 CPC.

8. In the case at hand, admittedly, there is no document of title in favour of the plaintiff on the basis of which he can plead that cause of action



for filing the suit has arisen. A suit claiming title over immovable property is to be based either on successory title or on the sale deed or grant by the Government or by sale confirmation letter if the property is purchased in auction or by way of adverse possession, if the plaintiff's open and peaceful possession is hostile to the original owner for a continuous period of 12 years. Since the plaintiff has not filed suit claiming successory title or on the basis of adverse possession and there is no other document to prove his title, the trial Court has rightly dismissed the suit under Order 7 Rule 11 of the CPC.

It is a case where the plaintiff has not averred in the plaint nor produced any document disclosing a clear right to sue.

9. In the result, the Appeal has no substance, the same deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve

HEADLINES**FA No. 121 of 2017**

If on a meaningful reading of the plaint, clear right to sue is not disclosed nor any document has been filed in support of the pleaded right to sue, the suit is liable to be dismissed under Order 7 Rule 11 CPC.

