

IN THE HIGH COURT OF MADHYA PRADESH
 AT JABALPUR
 BEFORE
HON'BLE SHRI JUSTICE VIVEK JAIN
CIVIL REVISION No. 788 of 2023
ATUL KUMAR PATHAK AND OTHERS

Versus
RAMSAKHI DEVI AND OTHERS

Appearance:

Shri Rohit Sohgaura - Advocate for petitioners.
Shri Brahmendra Prasad Pathak - Advocate for respondent No.1.
Shri Arihant Tiwari - Advocate for respondents No.2, 4 to 7.
Shri Guru Prasanna Singh Parihar - Advocate for respondent No.12.
Shri Amit Mishra - Panel Lawyer for respondents No.11 and 13.

ORDER
(Reserved on :01.12.2025)
(Pronounced on :06.01.2026)

The present petition has been filed by the defendants being aggrieved by the order passed by the trial Court dated 14.08.2023, whereby the trial Court has rejected the application under Order 7 Rule 11 filed by the present petitioners-defendants on all grounds, except on the ground of valuation and Court fees and granted liberty to the plaintiffs to correct the valuation and pay the Court fees accordingly.

2. The case of the petitioners is that the suit was not maintainable at all and therefore, the trial Court ought to have rejected the plaint altogether and on this ground the impugned order passed by the trial Court is put to

challenge and prayer is made to reject the plaint under Order 7 Rule 11 CPC.

3. Learned counsel for the petitioner has submitted that the suit was not at all maintainable and it was the fit case to exercise jurisdiction vested in the Court under Order 7 Rule 11 CPC so as to save the parties from unnecessary trial of the suit. It is argued that in appropriate case the Court should exercise the jurisdiction under Order 7 Rule 11 CPC, rather than forcing the parties into unnecessary trial of a suit which clearly is barred by law.

4. It is argued by learned counsel for the petitioner that the suit has been filed by the plaintiff - respondent No.1 seeking declaration of title and challenging the sale deed executed in favour of the present petitioners-defendants No.10 to 16. It is argued that the suit has been filed in the year 2022 and challenge is made to the sale deed executed in favour of defendants No.10 to 16 by the defendants No.1 to 8. The plaintiff is the sister of defendant Nos.1 and 2 and defendant Nos.3 to 8 are the children of defendant Nos.1 and 2. In this manner, defendant Nos.1 to 8 are brothers and nephews of the plaintiff and defendant No.9 is the sister's son of the plaintiff.

5. It is argued that the sale deed(s) executed by defendants No.1 to 8 in favour of the petitioners being defendants No.10 to 16 have been

challenged in the year 2022, but in the entire plaint, the date of the sale deed is not mentioned and therefore, it cannot be inferred that the limitation in the present case is a mixed question of law and fact so as to be decided in trial after evidence. It would have been a mixed question of law and fact if the date of sale deed had been disclosed and any explanation had been put forth to challenge the sale deed at this point of time. It is argued that the sale deed(s) in favour of the petitioners are of the year 2012 and the suit has been filed after 10 years and just to get over limitation the dates of the sale deed have not been disclosed in the plaint and therefore, the trial Court could not have held that limitation is a mixed question of law and fact.

6. It is further argued that the suit is barred by law because the land has been subject matter of acquisition under Coal Bearing Areas Acquisition and Development Act, 1957 (for short referred to as 'Act of 1957'). It is argued that under the Act of 1957, Notification under Section 7(1) was issued on 13.08.2020 and even the Notification under Section 10, which relates to vesting of the land in the Government was issued on 06.08.2021, whereas the suit has been filed in the year 2022. It is argued that the land having been vested in the Central Government, now the plaintiff can only sue for share in compensation and the compensation is determined as per Section 14 of Act of 1957 and any dispute as to the person entitled to receive compensation has to be raised under Section

17(2) before the Tribunal constituted under the Act of 1957. It is further argued that as per Section 26 of Act of 1957, civil suit is barred and therefore, the suit was clearly barred by law and the trial Court has gravely erred in overlooking this important aspect of the case.

7. *Per contra*, learned counsel for the respondents has relied on the judgment of the High Court of Bombay in ***Sandeep vs. Suchita and others 2019 SCC OnLine Bom 13281***, to argue that the Tribunal under Act of 1957 cannot decide title disputes, which are complex issues and therefore, in view of Section 9 of CPC, the suit cannot be held to be barred by law unless specifically barred. It is further argued that the suit could not have been held to be barred by limitation, because limitation is a mixed issue of law and fact and the trial Court has rightly directed that limitation cannot be decided without sending the parties to trial. On these assertions, it is prayed to reject the petition.

8. Heard.

9. In the present case, the issue of limitation is taken up first. As per Article 58 and 59 of Limitation Act, the following has been provided:-

Description of suit	Period of Limitation	Time from which period begins to run
58. To obtain any other declaration.	Three years.	When the right to sue first accrues.
59. To cancel or set aside an instrument or	Three years.	When the facts entitling the plaintiff to have the

decree or for the rescission of a contract.		instrument or decree cancelled or set aside or the contract rescinded first become known to him.
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10. The limitation to set aside an instrument is 3 years and the starting point of limitation would be the time when the facts entitling the plaintiff to have the instrument cancelled or set aside first become known to him. The issue would be a mixed question of law and fact, if anything has been set up by the plaintiff that the relevant fact of execution of sale deed was not known to the plaintiff. Though the date of sale deed which the plaintiff seeks to get set aside, is disclosed in the entire plaint, but in paragraph 11 of the plaint, it has been mentioned that up to one year prior to filing of the suit the land was fallow and now a house has been started to be constructed by the defendants No.10 to 16/present petitioners on the land. It is also pleaded that when the plaintiff visited the spot on 27.02.2022 she came to know that there has been a sale deed in favour of defendants No.10 to 16. Though the date of sale deed is not disclosed in the plaint, but the date of knowledge of sale is mentioned in paragraph 11 of the plaint as 27.02.2022 and therefore, in the opinion of this Court, this issue would become a mixed issue of law and fact, because there is pleading of sale deed having come to knowledge of the plaintiff only in February, 2022.

11. So far as the suit being barred by law and barred by Section 26 of Act of 1957 is concerned, it is not in dispute that Notification under Section 7(1), which is Notification of intention to acquire the land was issued on 13.08.2020 and Notification under Section 10, which is the declaration of acquisition and consequential vesting on the land in the Central Government, has been issued on 06.08.2021. It is argued before this Court that all the questions of title are now not real issues, but virtual issues, because now the only question remains as to the entitled person to receive compensation and the compensation is to be determined as per Section 14 and the quantum of compensation has to be determined by the Tribunal under Section 14. Even the dispute of the persons entitled to receive the compensation has to be determined by the Tribunal under Section 17. Therefore, the suit is barred under Section 26, because all these issues are required to be determined by the Central Government or the authority competent under the Act of 1957, which would lead to divesting of jurisdiction from the Civil Court.

12. Relevant Sections 7, 10, 14, 17 and 26 of Act of 1957 are as under:-

“7. Power to acquire land or rights in or over land notified under section 4.—

(1) If the Central Government is satisfied that coal is obtainable in the whole or any part of the land notified under sub-section (1) of section 4, it may, within a period of

two years from the date of the said notification or within such further period not exceeding one year in the aggregate as the Central Government may specify in this behalf, by notification in the Official Gazette, give notice of its intention to acquire the whole or any part of the land or of any rights in or over such land, as the case may be.

10. Vesting of land or rights in Central Government.—(1) *On the publication in the Official Gazette of the declaration under section 9, the land or the rights in or over the land, as the case may be, shall vest absolutely in the Central Government 6[free from all encumbrances].*
 (2) *Where the rights under any mining lease 1[granted or deemed to have been granted by a State Government] to any person are acquired under this Act, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of the State Government as if a mining lease under the Mineral Concession Rules had been granted by the State Government to the Central Government, the period thereof being the entire period for which such a lease could have been granted by the State Government under those rules.*

14. Method of determining compensation.—

(1) *Where the amount of any compensation payable under this Act can be fixed by agreement, it shall be paid in accordance with such agreement.*

(2) *Where no such agreement can be reached, the Central Government shall constitute a Tribunal consisting of a person who is or has been or is qualified to be a Judge of a High Court for the purpose of determining the amount.*

(3) *The Central Government may in any particular case nominate a person having expert knowledge in mining to assist the Tribunal, and where such nomination is made, the person or persons interested may also nominate any other person for the same purpose.*

(4) *At the commencement of the proceedings before the Tribunal the Central Government and the person interested shall state what in their respective opinions is a fair amount of compensation.*

(5) *The Tribunal shall after hearing the dispute, make an award determining the amount of compensation which*

appears to it to be just, and specify the person or persons to whom the compensation shall be paid; and in making the award the Tribunal shall have regard to the circumstances of each case and to the foregoing provisions of this Act with respect to the manner in which the amount of compensation shall be determined in so far as the said provisions or any of them may be applicable.

(6) Where there is a dispute as to the person or persons entitled to compensation and the Tribunal finds that more persons than one are entitled to compensation, it shall apportion the amount thereof among such persons and in such manner as it thinks fit.

(7) Nothing in the Arbitration Act, 1940 (10 of 1940), shall apply to any proceedings under this section.

(8) The Tribunal, in the proceedings before it, shall have all the powers which a civil court has while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) reception of evidence on affidavits;

(iv) requisitioning any public record from any court or office; and

(v) issuing commissions for examination of witnesses.]

17. Payment of compensation.—(1) Any compensation payable under this Act may be tendered or paid to the persons interested entitled thereto, and the Central Government shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2).

(2) If the persons interested entitled thereto shall not consent to receive it or if there be any dispute as to the sufficiency of the amount of compensation or the title to receive it or the apportionment thereof, the Central

Government shall deposit the amount of compensation with the Tribunal:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

[Provided further that every person who claims to be an interested person (whether such person has been admitted to be interested or not) including the person referred to in the preceding proviso shall be entitled to prefer a claim for compensation before the Tribunal:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to prefer any such claim before the Tribunal.]

(3) When the amount of compensation is not paid or deposited as required by this section, the Central Government shall be liable to pay interest thereon at the rate of five per centum per annum from the time the compensation became due until it shall have been so paid or deposited.

26. Jurisdiction of civil courts.—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Central Government or the competent authority or any other person is empowered by or under this Act to determine.”

13. As per Section 10 Notification has already been issued by the Central Government on 06.10.2021 and the land has been vested in the Central Government. As per Section 14(1), compensation has to be determined by agreement and where no agreement can be reached, compensation would be determined by a Tribunal under Section 14(2), which shall consist of a person who is or has been or is qualified to be a Judge of the High Court.

14. As per Section 14 (5), the Tribunal shall make an award and have all the powers of the Civil Court in terms of Section 14 (8). It is further provided in Section 17 (2) that if the persons interested do not consent to receive the compensation or there is any dispute as to the sufficiency of the amount or as to the apportionment of the compensation, then the Central Government shall deposit the amount of compensation before the Tribunal and the claim by any person, who claims to be interested person shall be entitled to prefer such claim before the Tribunal. Therefore, it appears that the question that whether the plaintiff being sister of defendant Nos.1 and 2 and being the aunt of defendants Nos.3 to 9 is entitled to any share in compensation can very well be raised by her in terms of Section 14(2) read with Section 17(2) of Act of 1957. Since the title of the land now vests in the Central Government upon issuance of Notification under Section 10 of Act of 1957, therefore, the only question that now remains is the right of the plaintiff to receive share in compensation, and nothing else.

15. The counsel for the respondents have relied on judgement of the Bombay High Court in *Sandeep (Supra)*. In the aforesaid judgement, the Single Bench of Bombay High Court has held that the Tribunal cannot determine the questions of title where the questions involved decision on important civil and property rights, and therefore, this decision must

necessarily be that of the Civil Court. However, the Bombay High Court seems to have skipped the provision of Section 14(2), though quoted in the order, that the Tribunal shall consist of a person who is or has been or is qualified to be Judge of High Court, implying thereby that he would be a person of legal acumen and not be a quasi-judicial authority. It is informed that at present the Tribunal is headed by a serving Principal District Judge.

16. The same issue has been considered by the Patna High Court and by the Jharkhand High Court. The High Court of Patna in the case of *Somra Manjhl alias Somaru Manjhlvs Central Coal fields Ltd. and Others, 1996 SCC OnLine Pat 648* has categorically held that once the main purpose of the suit is nothing but getting compensation, then the suit cannot be said to be maintainable even if it is a suit seeking declaration of title and interest in the suit property. It has been held that such matters can very well be agitated before the Tribunal under Section 17 of Act of 1957 and suits have to be held to be barred under Section 26 of the Act of 1957. The Patna High Court has held as under:-

“3. The suit was contested by filing separate written statements by defendants No. 1 to 5 and also by defendant No. 6. Jurisdictional point was raised by defendant No.6 referring to bar under Sec. 26 of the Act. Though it has not been stated/averred specifically about the notifications being made by the Central Government under the Act or no challenge has been made regarding the acquisition under the Act and notifications being made but it appears that the plaintiff

artistically designed the plaint for avoiding the title being transferred of the lands to the Central Government but the main purport of the suit is nothing but getting compensation in lieu of the acquisition in favour of the plaintiff instead of defendant No. 6.

4. When the notification is being made as is stated specifically in the written statement then practically there cannot be any scope of declaration of title of the plaintiff over the suit land without challenging the notification itself. For payment of compensation, the Act itself is a self-contained Act giving all provisions as to how the compensation is to be made by the original owner. If the rightful owner is deprived of compensation then he had got scope to agitate the matter and the Central Government in appropriate case is to constitute a tribunal for the purpose of disbursement of compensation under Sec. 17 of the Act and there is also a provision of appeal against the decision of the Tribunal before the High Court under Sec.,20 of the Act. When once acquisition is made regarding disbursement of compensation and other matters ancillary to can be decided within the scope of the Act itself and such power has been barred under Sec. 26 of the Act of the Civil Court's jurisdiction. It is well settled law that Civil Court's jurisdiction is vast and the same cannot be curtailed unless there is a specific bar put by any other self-contained Act.

5. It is the contention of Mr. N.K. Prasad, learned counsel appearing for on behalf of the plaintiff, that such sort of jurisdiction points is mixed question of law and facts and in the present case, the same being a complicated one, the learned court below and committed error of law in deciding this jurisdictional matter when the suit was proceeding for hearing and two witnesses have already been examined for and on behalf of the plaintiff. His further submission is that this jurisdictional point was never raised by the defendant Nos. 1 to 5 but the same was only raised by defendant No. 6, a private defendant and the same ought not to have been entertained at such belated stage of the suit. Jurisdictional point that too in respect of territorial jurisdiction can be raised by the Court itself even if there is no point being raised from the side of the contesting parties. I do not find any jurisdictional error when the court took up the matter although at a belated stage.

6. Now the point in question is whether a person deprived of compensation for acquisition under the Act is entitled to come to a Civil Court or not. Definitely, the bar put under Sec. 26 of the Act deprives the plaintiff from coming with such point. I have already mentioned that the main purport of the plaint was to get compensation and service of one of the dependants of the plaintiff in lieu of acquisition although the question of title was raised only to bring the suit within the fold of the Civil Court. The trick of pleadings and the camouflage of the reliefs are not decisive in the matter but the space of the question or the effect of the reliefs are to be considered to decide the jurisdiction point. Reference in this connection may be made to the case of *Vatticherukuru Village Panchayat v. Nori Madhusudan*, 1991 Supp (2) SCC 228. In the present case it appears that the reliefs claimed in the suit are nothing but the question as to who is entitled to compensation either the plaintiff or defendant No. 6 vis-a-vis as to whose title was there over the acquired land at the time of acquisition and this matter is exclusively within the jurisdiction of the particular tribunal to be set up for the purpose under Sec. 17 of the Act. The Civil Court can have no jurisdiction as per bar being created under Sec. 26 of the Act. The learned court below had rightly held that the Civil Court has got no jurisdiction to try the plaintiff's suit. It appears from the order of this Court in relation to the present dispute in C.W.J.C. No. 1307 of 1990 (R) raised by defendant No. 6 regarding payment of compensation that no tribunal was set up for the purpose of deciding compensation as there were no other claimants except defendant No. 6. If the plaintiff feels that he has been deprived of getting legitimate right of compensation, then he is at liberty to move the appropriate authorities for setting up of a tribunal u/Sec. 17 of the Act and if the same is being denied, he can have the liberty to move before an appropriate forum for redressal of his grievance, but it is maintained that the Civil Court has got no jurisdiction for redressal of the grievance of the plaintiff."

17. The same issue was raised by the High Court of Jharkhand also in **S.A. No.201/2005 (Most. Shanti Devi & others vs. Md. Abdul and**

others) decided on 28.11.2022. The Jharkhand High Court has held as under:-

"17. So far as the contention of Mr. Amar Kumar Sinha, learned counsel for the respondents that learned tribunal constituted under the provisions of the said Act, has no power to adjudicate the title of the contesting parties is concerned, a plain reading of the Section 17(2) of the said Act, goes to show that interalia, in case of dispute in title between the claimants for compensation, the Central Government shall deposit the amount of compensation with the tribunal and Section 14 (5) of the said Act envisages the procedure which is to be adopted by the tribunal and one should not loose sight of the fact about the stature of the person who constitute the tribunal, being a person who is or has been or qualified to be a judge of a High Court, which in other words means a person of experienced judicial mind having all the expertise and traits that is required to adjudicate every aspects of law involved in the matters before such tribunal. Unlike the revenue statutes or unlike the statutes of settlement operation, there is no provision in Coal Bearing Areas (Acquisition and Development) Act, 1957 that in case of dispute of title, the matter be referred to the civil court rather the power vested under Section 14(8) upon the tribunal, has empowered it to exercise the powers of a civil court while trying the suit under the Code of Civil Procedure, for the purpose of summoning, discovery and production of documents, reception of evidence on affidavits, requisitioning any public record and issuing commissions for examination of witnesses. The vesting of all such powers on the tribunal and under the circumstances discussed above, leads one to only corollary that learned tribunal under the Coal Bearing Areas (Acquisition and Development) Act, 1957 can adjudicate the disputed title of claimants in respect of acquired property before it at least to the limited extent of as to which of the disputing parties are entitled to the compensation amount deposited by the Central government with it. Hence, this court is not persuaded by the submissions made by the learned counsel for the respondents that learned tribunal constituted under Section 14 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 does not have the power to

adjudicate the title of the claimants in respect of the acquired property.

18. Now coming to the judgment of *SomraManjhi @ SomaruManjhi vs. Central Coal Fields Ltd. &Ors.* (*supra*) is concerned, in that well discussed judgment, after taking all the relevant laws, the Hon'ble Patna High Court has come to the conclusion that the suit for adjudication of right, title, interest and possession over the lands acquired under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957, cannot be entertained by the Civil Court in view of the burden of jurisdiction of the civil court contained under Section 26 of the said Act.

19. As rightly, submitted by Mr. P.P.N. Roy, learned seniorcounsel for the appellant, this court does not find, after carefully going through both the Exhibit C and C/I that therein, it has been mentioned that the compensation has been fixed according to the agreement of the representatives of the land owners, as claimed by learned trial court in paragraph 57 of its judgment. The same is an error of record committed by the trial court; as such claim of the trial court is not a fact rather the Exhibit C/I goes to show that such compensation has been quantified by the officers deputed by the State Government.

20. Under such circumstances, this court has no hesitation in holding that the civil court has no jurisdiction to try the instant suit, the suit land of which is a land admittedly acquired under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957 and admittedly notices for receipt of the compensation under the said Act, has already been issued by the concerned authority. Hence, the sole substantial question of law is answered in affirmative by holding that in the instant case, the civil court has no jurisdiction to try the suit, in view of Section 26 of the Coal Bearing Areas (Acquisition and Development) Act, 1957.”

18. Looking to the scheme of Act of 1957, and most particularly Section 14, 17 and 26 thereof, this Court is in agreement with the view taken by Patna and Jharkhand High Courts. It is clear that in the present

case, once the suit has been filed after issuance of Notification under Section 10 of Act of 1957 and the land stood vested in the Central Government prior to filing of the suit, therefore, the suit is clearly not maintainable and is barred by law and it was a fit case where the trial Court ought to have exercised the jurisdiction vested in it under Order 7 Rule 11 CPC and avoided trying a suit, which is patently barred by law.

19. Consequently, the revision is **allowed**. The order of the trial Court is set aside. The application filed by the petitioner under Order 7 Rule 11 CPC is allowed and the plaint stands rejected on the ground of the suit being barred by Section 26 of Act of 1957. Parties to bear their own costs.

**(VIVEK JAIN)
JUDGE**

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