



2026:CGHC:17136-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**FA No. 95 of 2025**

1 - Siddharth Shukla S/o Ashish Kumar Shukla Aged About 10 Years Through Natural Guardian Mother Smt. Komal Shukla Wife Of Ashish Kumar Shukla, Aged About 46 Years, Resident Of Ward No. 10, Sadak No. 16, 8/ A, Nandani Nagar, Ahiwara, Tahsil Dhamdha, District Durg Chhattisgarh.

... Appellant/Plaintiff**versus**

1 - Tarkeshwari Shukla D/o Bhagwat Shukla Aged About 48 Years R/o Data Entry Operator, Nagrikkalyan Mahavidhyalay, Nandani Nagar, Ahiwara, Tahsil Dhamdha, District Durg Chhattisgarh.

2 - Alka Shukla D/o Bhagwat Shukla Aged About 54 Years R/o Teacher, Kailashpati Singhaniya School, Nuvoco Cement Plant, Arasmeta, District Janjgir Champa Chhattisgarh.

3 - State Of Chhattisgarh Through The Collector, Durg, District Durg Chhattisgarh.

... Respondents/Defendants

For Appellant : Mr. Praveen Dhurandhar, Advocate
For Respondents No. : Mr. T.K. Jha with Mr. Parth Kumar Jha,
1 and 2 Advocates
For Respondent No. 3 : Mr. Rahul Tamaskar, G.A.
/State

DB- Hon'ble Shri Justice Sanjay K. Agrawal

Hon'ble Shri Justice Sachin Singh Rajput

Judgment On Board

15.04.2026

Sanjay K. Agrawal, J.

1. Invoking appellate jurisdiction of this Court under Section 96 of the Code of Civil Procedure, the appellant/plaintiff has preferred this appeal questioning the illegality, validity and correctness of the impugned order dated 04/11/2024 (Annexure A/1) passed by learned 3rd District Judge, Durg in Civil Suit No. 17-A/2019 whereby the suit filed by the appellant/plaintiff has been rejected invoking Order 7 Rule 11 (c) of CPC.

(For the sake of convenience, parties would be hereinafter referred as per their status and ranking shown in the suit before the trial Court.)

2. The aforesaid challenge has been made on the following factual backdrop :-

(i) Original plaintiff namely Bhagwat Shukla filed a suit for declaration of gift deeds dated 16/07/2018 as null and void and for permanent injunction.

(ii) During the pendency of the suit, defendants No. 1 and 2 filed application under Order 7 Rule 11 of CPC stating that the plaintiff has paid less court fee for getting the relief of cancellation of the said gift deeds, therefore, his plaint is liable to be rejected.

(iii) The trial Court, by its order dated 07/02/2024, held that as per Order 7 Rule 11(c) of CPC, the plaint is not sufficiently stamped and proper court fee has not been paid by the plaintiff and thereby, proceeded to grant one month's time to the plaintiff to pay requisite court fee.

(iv) On 24/04/2024, present plaintiff - Siddharth Kumar Shukla moved an application under Section 149 of CPC stating that after the death of original plaintiff - Bhagwat Shukla, he, being the grandson of the original plaintiff, has been substituted and since the entire court fee of Rs. 3,04,000/- is excessive, therefore, he may be allowed to deposit 50% court fee i.e. Rs. 1,52,000/- at present and may be granted time to deposit the remaining court fee till the adjudication of the suit. However, though the trial Court rejected the said application filed by the plaintiff under Section 149 of CPC

but granted 15 days time to the plaintiff to pay the entire amount of court fee. The matter was fixed for 22/10/2024 but further time was sought by the plaintiff.

(v) Ultimately, vide order dated 04/11/2024, the trial Court proceeded to reject the plaint filed by the plaintiff invoking Order 7 Rule 11(c) of CPC stating that plaintiff has failed to pay the requisite court fee despite having been given sufficient time, being aggrieved by which, the plaintiff has preferred this first appeal.

3. Mr. Praveen Dhurandhar, learned counsel for the appellant/plaintiff, would submit that the trial Court ought to have taken a pragmatic view of the matter considering that original plaintiff and defendants No. 1 and 2 were father and daughters in relation and further in view of the fact that plaintiff was ready and willing to pay 50% of the court fee i.e. Rs. 1,52,000/- which shows that there was no mala fide intention or a deliberate effort on the part of the plaintiff to not pay requisite court fee. Moreover, the provision under Order 7 Rule 11 of CPC also implies that the Court has power to extend the time granted to pay proper court fees if it is satisfied that the default was not intentional or deliberate, as such, the impugned order is liable to be set aside. He would rely upon the decision rendered by the Supreme Court in the matter of

Raju Thomas and Others v. Devu and Others¹ to buttress his submission.

4. Per contra, Mr. T.K. Jha, learned counsel for respondents No. 1 and 2, would support the impugned order and submit that the trial Court has rightly rejected the plaint of the plaintiff by invoking Order 7 Rule 11(c) of CPC as sufficient time was granted to the plaintiff and the matter was adjourned thrice, yet the plaintiff failed to pay the requisite court fee, as such, the instant appeal is liable to be dismissed.
5. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
6. A careful perusal of the impugned order would show that the trial Court has rejected the plaint invoking Order 7 Rule 11(c) of CPC solely on the ground of non-payment of requisite court fee. However, it is evident from the record that the plaintiff had moved an application under Section 149 of CPC expressing his willingness to deposit 50% of the court fee i.e. Rs. 1,52,000/- and sought reasonable time to deposit the remaining 50% of the amount prior to the final outcome of the suit. This clearly indicates that there

¹ (2019) 14 SCC 611

was no deliberate or mala fide intention on the part of the plaintiff to evade payment of requisite court fee.

7. At this stage, it would be appropriate to notice the provision contained under Order 7 Rule 11(c) of CPC as well as Section 149 of CPC, which provides as under :-

“ORDER VII”

“11. Rejection of plaint. - The plaint shall be rejected in the following cases :-

(a) XXX

(b) XXX

(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;”

“149. - Power to make up deficiency of court-fees. - Where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court-fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court-fee; and upon such payment the document, in respect of which such fee is payable, shall have the same force and effect as is such fee had been paid in the first instance.”

8. The provision contained under Order 7 Rule 11(c) of the CPC confers discretionary power upon the Court to extend the time for payment of deficit court fee if sufficient cause is shown. The said provision is intended to advance the cause of justice and not to defeat it on technical grounds.

9. In the matter of **Raju Thomas** (supra), wherein the appellant-plaintiffs were to pay deficit court fee of Rs. 88,560/- on 02/07/2013, however, the Advocate representing the appellant-plaintiffs noted date as 02/08/2013 and informed him due to which deficit court fee was not paid on 02/07/2013 and the trial Court rejected plaint under Order 7 Rule 11(b) CPC which was also upheld by the High Court, it has been held by their Lordships of the Supreme Court that default occurred due to mistake on the part of the Advocate of the appellant-plaintiffs and the default was not intentional nor deliberate, proceeded to restore the suit. Paragraph 5 of the judgment states as under :-

“5. Upon hearing the learned counsel for the parties and on a consideration of the singular facts and circumstances of the case, which demonstrate that the default on the part of the appellant-plaintiffs has occurred due to the mistaken date of posting of the suit as recorded by their counsel and that there was neither any deliberate or intentional failure on their part to deposit the balance court fee, we are of the view that it is a fit case, where in the interest of justice, the balance court fee need be accepted by the trial court and the suit be restored to be adjudicated on merits in accordance with law. This is more so, as the legislation referred to by the learned counsel for the respondents empowers the court to extend the time of deposit of court fee otherwise prescribed by it. We order accordingly.”

10. Reverting to the facts of the case in light of the aforesaid legal analysis as well as the decision rendered by the Supreme Court in the matter of **Raju Thomas** (supra), it is quite vivid that plaintiff had

not only shown his bona fide conduct by moving an application under Section 149 of CPC, but had also expressed his readiness and willingness to deposit a substantial part of the court fee and sought reasonable time to deposit the remaining deficit amount. Such conduct, by no stretch of imagination, can be construed as willful default or deliberate negligence so as to reject his plaint at the very threshold. In our considered opinion, the trial Court has adopted a hyper-technical approach in rejecting the plaint filed by the plaintiff without adequately considering the bona fide conduct of the plaintiff and his request for extension of time. Though initially opportunity was granted by the trial Court to the plaintiff for depositing the deficit court fee, but the peculiar facts and circumstances including substitution of legal representative of the original plaintiff and the genuine request for reasonable time to deposit the court fee warranted a more pragmatic and justice-oriented approach.

- 11.** In that view of the matter, the impugned order dated 04/11/2024 (Annexure A/1) is hereby set aside and matter is remanded back to the trial Court for its restoration to the original number and for disposal strictly in accordance with law after hearing the parties. Plaintiff is granted a final opportunity to deposit the entire requisite court fee on or before 17/06/2026. Parties are directed to

appear before the trial Court on 17/06/2026 and if the requisite court fee is not paid till that date, the trial Court is at liberty to proceed in accordance with law and dismiss the suit filed by the plaintiff.

12. Accordingly, this appeal is allowed to the extent indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Sachin Singh Rajput)
Judge

Harneet