

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 559 of 2014

1. Santosh Das S/o Late Bedul Das @ Bedudas Aged About 30 Years Caste Panika, R/o Village/P.O. Sonsari, P.S./tahsil Janjgir, Distt. Janjgir-Champa C.G.
2. Smt. Fuleshri Bai W/o Late Bedul Das @ Bedudas Aged About 65 Years Caste Panika, R/o Village/P.O. Sonsari, P.S./tahsil Janjgir, Distt. Janjgir-Champa C.G.

---- Petitioners

Versus

1. Smt. Subhadra Singh W/o Jaleshwar Singh Rajput Aged About 45 Years R/o Village/P.O. Sonsari, P.S./tahsil Akaltara, Distt. Janjgir-Champa C.G.
2. State Of C.G. Through District Collector Janjgir-Champa, P.O./P.S./tahsil Janjgir, Distt. Janjgir-Champa C.G.

---- Respondents

Shri Somnath Verma, counsel for the petitioner/s.
Shri Deepak Kumar Singh, counsel for respondent No.1.
Shir Vinod Tekam, Panel Lawyer for the State.

Order On Board

16/09/2015

Heard.

This petition, under Article 227 of the Constitution of India, is directed against order dated 28/06/2014 by which petitioner's amendment application has been rejected by the Trial Court.

2. Learned counsel for the petitioner submits that after the death of one of the defendant – Mohanmati, the petitioner has now restricted his claim only in respect of part of the property which was subject matter of the suit. It is submitted that this amendment is not going to adversely affect either the trial of the case nor is going to prejudice the remaining defendants in the suit.

3. On the other hand, learned counsel for respondent / defendants submits that if the petitioner is allowed to amend the suit, the suit itself is

liable to be dismissed. Therefore, amendment application has been rightly rejected.

4. Irrespective of the consequences flowing upon deletion of name of Mohanmati from the array of defendants after her death, without bringing the legal representatives of the deceased, if the petitioner / plaintiff inclines to restrict his claim only in respect of part of the property in dispute, in the considered opinion of this Court, such amendment neither create delay in trial nor it adversely affect or prejudice the remaining defendants in the suit. There is no reason, why the Court below rejected the amendment application.

5. The petition is accordingly allowed. Impugned order dated 28/06/14 is set aside. Necessary amendment shall be carried out by the petitioner / plaintiff in the suit. The defendants shall be granted sufficient opportunity of filing consequential amendment in their written statement.

Sd/-

Manindra Mohan Shrivastava
Judge