

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No.103 of 2015

Sri Sadar Khan S/o Ramjan Jaan R/o Rajjak Auto Electrical, Bastar - Road, Dhamtari,
Tahsil And District Dhamtari (C.G.)

---- Petitioner

Versus

Smt. Jugga Devi W/o Ranulal Saklecha Aged About 60 Years R/o Sadar Bazar,
Dhamtari Tahsil And District Dhamtari (C.G.)

---- Respondent

For Petitioner	:	Shri Ritesh Verma, Advocate.
For Respondent	:	Shri Vishnu Koshta, Advocate.

Order On Board

18/09/2015

Heard.

1. This petition under Article 227 of the constitution of India is preferred against order dated 15.12.2014 by which plaintiff/petitioner's application under Order 14 Rule 5 CPC has been rejected.
2. Learned counsel for the petitioner submits that in the conspectus of pleadings and relief sought, the petitioner is a necessary party and the issue proposed by the petitioner has not been decided and the Court below has wrongly held that such issue cannot be framed on the ground that the father of the petitioner was held not to be a necessary party. He submits that the petitioner filed application for framing additional issue which is required to be determined as after the death of his father during the pendency of the suit, the petitioner has come on record as legal representative.
3. On the other hand, learned counsel for the respondent submits that for reasons to be recorded in the order impugned, petitioner's application is not maintainable.
4. The operative reason for rejecting petitioner's application is that earlier the Trial Court

has already held that Nemnath Nanda is not a necessary party. The petitioner has been brought on record as legal representative of late Nemnath Nanda. There is nothing in the petitioner's application to show that he has been impleaded as a party in the suit, not in representative capacity but in his own capacity. Otherwise also, the common order of this Court passed on 05.01.2006 in Second Appeal No.329/2005, 330/2005 and 331/2005 (Smt. Jugga Devi Vs. Smt. Satyavati and others) comes in the way of petitioner's application, therefore, no illegality has been committed by the Court below in rejecting application.

5. The petition is, therefore, dismissed.

Sd/-

Manindra Mohan Shrivastava

J U D G E