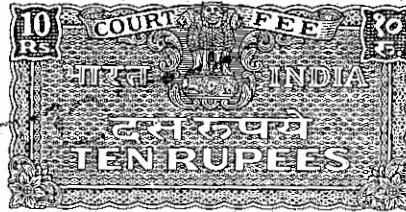


SINGLE BENCH



C-8.152

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IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

(C.G.)

WRIT PETITION (C) NO. 1073 OF 2008

PETITIONERS
Applicants

1. Revti Bai Wife of Mohan Lal Sahu,
aged about 45 years;
 2. Dharam Son of Mohan Lal Sahu,
aged about 24 years;
 3. Khileshwar Son of Mohan Lal Sahu,
aged about 21 years;
- All resident of Village Gathula, P.H.
NO. 22, Tahsil and District
Rajnandgaon (C.G.).

P.R. No. 1067/28
Presented by Abhishek Sharma
dated 12/2/28
RECEIVED-COPY
1073/02/08
CLERK to A.G. BILASPUR

VERSUS

RESPONDENTS
PLAINTIFF

1. Madan Lal Son of Late Panchram
Sahu, aged about 45 years,
Resident of Village Gathula, Tahsil
and District Rajnandgaon (C.G.).
2. State of Chhattisgarh, through the
Collector, District Rajnandgaon
(C.G.).

DEFENDANT NO.2

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF
INDIA



HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 1073 of 2008

1. Revti Bai W/o Mohan Lal Shau, aged about 45 years
3. Dharam S/o Mohan Lal Sahu, aged about 24 years
4. Khileshwar S/o Mohan Lal Sahu, aged about 21 years

All are resident of Village Gathula, P.H. No.22, Tahsil
and District Rajnandgaon (C.G.)

---- Petitioners

Versus

1. Madan Lal S/o Late Panchram Sahu, aged about 45
years, R/o village Gathula, Tahsil and District
Rajnandgaon (C.G.)
2. State Of Chhattisgarh, through the Collector, District
Rajnandgaon (C.G.)

---- Respondents

For Petitioners
For Respondent No.1

Shri Abhishek Sharma, Advocate
Shri Adhiraj Surana, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

20/03/2015

The petitioners through the instant writ petition has challenged the impugned order dated 03.11.2007 passed by the Civil Judge Class-2, Rajnandgaon in Civil Suit No. 37-A/2007.

2. The facts in brief are that respondent No.1/plaintiff had filed a suit for declaration and possession against husband of petitioner No.1 and father of petitioner Nos. 2 & 3 namely Mohan Lal Sahu. Grievance of the petitioners is that Mohan Lal Sahu has deserted them for about more than 15 years and his whereabouts are not known in spite of having made best efforts. Knowing this fact the respondent No.1/plaintiff who is the brother of the husband of petitioner No.1 has filed a suit seeking for declaration and possession over the suit property and that the Court below has proceeded *ex party* against the husband and father of the petitioners. The petitioners immediately



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-2-

approached the Court below and moved an application under Order 1 Rule 10 CPC with a request that the petitioners may be made a necessary party to the suit as their interest is involved in the suit property and that they are the direct legal heirs of Mohan Lal Sahu, in the suit.

3. This application of the petitioners under Order 1 Rule 10 CPC was rejected by the Court below vide impugned order leading to the filing of the present petition.

4. This Court has made repeated attempts in getting the notice served upon respondent No. 1/plaintiff but in spite of service being made effectively upon respondent No. 1, he has chosen not to appear before the Court either in person or through a counsel and the suit by virtue of interim protection granted by this Court on 21.02.2008 is stayed.

5. Taking into consideration the attitude of respondent No. 1/plaintiff and also the fact that there is a direct interest of the petitioners in the suit property, the impugned order dated 03.11.2007 passed by the Court below is set aside and it is directed that the Court below shall permit the petitioners to be added as defendants in the suit and shall proceed further to decide the case on its merits.

6. It is the duty of the petitioners to appear before the Court below on the next date of hearing and apprise about the order passed by this Court today.

7. With the aforesaid observation, the present writ petition stands allowed and disposed of.

Sd/-
P. Sam Koshy
Judge