

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 917 of 2015**

1. Vishram S/o Naresh, Aged About 65 Years By Caste Gond, Occupation Agriculture, R/o Village Ameri Akbari, Tahsil Bilha, District Bilaspur (Chhattisgarh)
2. Birbal S/o Naresh, Aged About 62 Years By Caste Gond, Occupation Agriculture, R/o Village Ameri Akbari, Tahsil Bilha, District Bilaspur (Chhattisgarh)
3. Chhotelal S/o Naresh, Aged About 60 Years By Caste Gond, Occupation Agriculture, R/o Village Ameri Akbari, Tahsil Bilha, District Bilaspur (Chhattisgarh)
4. Kushal S/o Naresh, Aged About 58 Years By Caste Gond, Occupation Agriculture, R/o Village Ameri Akbari, Tahsil Bilha, District Bilaspur (Chhattisgarh)

---- Petitioners**Versus**

1. Dinesh Dhruv S/o Sitaram Dhruv, Aged About 36 Years Caste Gond, Occupation Agriculture, R/o Village Bangalipara, Sarkanda, Post And Police Station Sarkanda, Tahsil And District Bilaspur (Chhattisgarh)
2. Laxman Soni S/o Mohar Singh, Aged About 38 Years Caste Satnami, R/o Village Mudipar, Tahsil Bilha, District Bilaspur (Chhattisgarh).
3. Mohar Singh S/o Late Manglu, Aged About 50 Years Caste Satnami, R/o Village Mudipar, Tahsil Bilha, District Bilaspur (Chhattisgarh).
4. Prinayka Shrivastava, Ex P. H. No. 20, Village Ameri Akbari, Through Tahsildar Bilha, District Bilaspur (Chhattisgarh)
5. K. S. Paikara, Tahsildar Bilha, District Bilaspur (Chhattisgarh).
6. State Of Chhattisgarh, Through Collector, District Bilaspur (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Tarendra Kumar Jha, Advocate.
For Respondent No.6/State	:	Shri Aditya Sharma, Panel Lawyer on advance copy.
For Respondents No.1 to 5	:	Not noticed.

Order On Board**5/11/2015**

1. It is submitted on behalf of the Petitioners that the matter may be disposed of finally without even noticing to the other private Respondents as

the prayer made by the Petitioners is to direct the Court below to formulate additional issues and after formulation of additional issues, the matter may be disposed of in accordance with law after giving due opportunities to the parties.

2. From perusal of the instant WP (227) and the order passed by the Court below, prayer made in this behalf appears to be proper and acceptable.

3. On due consideration, the petition is heard finally at the motion stage itself without noticing Respondents No.1 to 5.

4. The facts in brief of the instant Writ Petition (227) are that the Petitioners had filed an application under Order XIV Rule 5 of the Code of Civil Procedure, 1908 (for short 'the Code') for framing of the additional issues. The same prayer was rejected by the Court below. Against the said order, the Petitioners have preferred the instant petition seeking the jurisdiction of this Court under Section 227 of the Constitution of India and prays that this Court may kindly be directed the trial Court to frame additional issues and thereafter opportunity be given for hearing and then decide the matter in accordance with the provisions of law.

5. On due consideration, the prayer made in this behalf by the Petitioners is proper and acceptable. It would be appropriate to direct the Court below to frame additional issues and the matter may be disposed of after affording opportunity of hearing to the parties as per provisions of law.

6. Consequently, the petition filed on behalf of the Petitioners is hereby allowed and the order passed by the Court below dated 23.10.2015 is hereby set aside. The trial Court is directed to frame the additional issues as per the prayer made in the application under Order XIV Rule 5 of the Code

and to dispose of the same after affording opportunity to both the parties and to decide the matter in accordance with the provisions of law.

7. With the above directions, the instant petition is allowed.

8. No order as to costs.

Sd/-
Chandra Bhushan Bajpai
Judge