

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 908 of 2015**

- Vasudev S/o Shri Boda Ram, Aged About 56 Years R/o Sonu- Monu Dhaba, Vil : Siltara, Bilaspur Road, Tahsil : & Civ : & Rev : Dist : Raipur (Chhattisgarh)

---- Petitioner**Versus**

1. Smt. Juga Bai W/o Late Shri Ranulal Sacklecha, Aged About 88 Years
2. Hemchand Sacklecha S/o Late Shri Ranulal Sacklecha, Aged About 63 Years
3. Pravin Sacklecha S/o Late Shri Ranulal Sacklecha, Aged About 46 Years
R-1 to 3 R/o Sadar Bazar, Tah : & Civ : & Rev : Dist : Dhamtari (Chhattisgarh)
4. M/s. Kailash Biscuit Factory, Through Proprietor, Banjari Road Tahsil : & Civ : & Rev : Dist: Raipur (Chhattisgarh)..
5. Bodaram, S/o Pariyamal, Aged About 95 Years
6. Chandra Bhan S/o Pariyamal, Aged About 95 Years
No. 5 and 6 Partner Of M/s. Kailash Biscuit Factory, Banjari Road Tahsil : & Civ : & Rev : Dist : Raipur (Chhattisgarh).....
7. Pratap Narayan Dubey, S/o Late Vindheshwari Prasad Dubey, Aged About 98 Years R/o Mahavir Swami Mandir, Civ : & Rev : Dist : Raipur (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Devarshi Thakur, Advocate.
For Respondents	:	Not noticed.

Order On Board**04/11/2015**

1. Heard on admission.
2. Facts of the case in brief are that the Civil Suit (number not mentioned or shown in the entire petition and the documents annexed) pending before the court below was dismissed for want of prosecution on 17-8-2011. Against said dismissal present respondents No. 1 to 3 had filed an application under Order 9 Rule 9 of the Code of Civil Procedure (in brevity 'CPC') which was registered as MJC No. 6/2012. During hearing of the MJC for restoration of civil suit, respondent No. 1 to 3 filed an application under Order 1 Rule 10 of CPC to implead the present petitioner and respondents No. 5 and 6 as necessary party as partner of the non-applicant No. 4 Kailash Buscuit Factory. The court below vide order dated 6-3-2014 directed all the above two to be impleaded as non-applicants as prayed. The court below vide on

25-8-2015 allowed MJC under order 9 Rule 9, CPC and the above-mentioned civil suit was restored for hearing. Against the order dated 6-3-2014 and 25-8-2014, petitioner filed instant writ petition to quash both the orders as he was not party as defendant in the original suit.

3. The petitioner has not filed copy of plaint, any order sheet of the aforementioned civil suit, even not mentioned the number of the civil suit, also not shown any document whether he had been impleaded in the suit.
4. As per settled law, no one can be impleaded without show cause and due hearing in the matter i.e. civil suit. The petitioner has not filed any such document, therefore it cannot be held whether the court below has passed the order for impleadment of the petitioner as defendant, also no order or notice to show cause is served on the petitioner.
5. On due consideration as the petitioner is not impleaded as defendant in the original suit, the matter is still not ripe for hearing and the matter can be considered on its merit regarding illegality or impropriety after any order passed by the court below to implead as a party in the suit.
6. On due consideration, I do not see any reason to interfere in the matter. If any order is passed under due process of law by the court below the same may be considered on its own merit as the case may be.
7. Consequently, instant writ petition is dismissed as not maintainable at the moment.
8. No order as to costs.

Sd/-
Chandra Bhushan Bajpai
Judge