

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 32 of 2016**

- Sahdev Vishwas, S/o Late Shri Gopalchandra Vishwas, aged about 58 years, Dukandar – Vishwas Battery, Bastar Road, Dhamtari, District Dhamtari (C.G.), through Power of Attorney holder Dinesh Vishwas, aged about 28 years, S/o Sahdev Vishwas, R/o Vishwas Battery, Bastar Road, Dhamtari, District Dhamtari (C.G.)

---- Applicant**Versus**

- Smt. Jugga Devi, Wd/o Late Ranulal Saklecha, aged about 83 years, R/o Sadar Bazar Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Non-applicant**TPC No. 33 of 2016**

- Sardar Khan, S/o Late Ramjan Khan, aged about 88 years, Dukandar, Rajjak Auto Electricals, Bastar Road, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Applicant**Versus**

- Smt. Jugga Devi, Wd/o Late Ranulal Saklecha, aged about 83 years, R/o Sadar Bazar Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Non-applicant**TPC No. 34 of 2016**

- Firoj Shah, S/o Late Harun Rashid Shah, aged about 32 years, Dukandar Shah Garage, Bastar Road, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Applicant**Versus**

- Smt. Jugga Devi, Wd/o Late Ranulal Saklecha, aged about 83 years, R/o Sadar Bazar Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Non-applicant**TPC No. 35 of 2016**

- Iqbal Hussain Qureshi, S/o Late Talsim Hussain, aged about 54 years, Shopkeeper Naiyyar Engineering Works, Bastar Road, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Applicant

Versus

- Smt. Jugga Devi, Wd/o Late Ranulal Saklecha, aged about 83 years, R/o Sadar Bazar Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Non-applicant

TPC No. 36 of 2016

1. Harilal Dewangan, S/o late Budhram, aged about 41 years,
2. Banti Dewangan, S/o Late Budhyram, aged about 38 years,

Both 1 & 2 Dukandar, Leth Mechanic Laxmi Engineering, Bastar Road, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Applicant

Versus

- Smt. Jugga Devi, Wd/o Late Ranulal Saklecha, aged about 83 years, R/o Sadar Bazar Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Non-applicant

TPC No. 41 of 2016

- Yogesh Doshi, S/o Late Hargovind Das, aged about 50 years, Dopshi Dukandar, Doshi Tyre Tube Vikreta, Bastar Road, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Applicant

Versus

- Smt. Jugga Devi, Wd/o Late Ranulal Saklecha, aged about 83 years, R/o Sadar Bazar Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Non-applicant

TPC No. 42 of 2016

- Satishan, S/o Late Madhwan, aged about 55 years, Dukandar Satish Tyre Remolding Works, Bastar Road, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Applicant

Versus

- Smt. Jugga Devi, Wd/o Late Ranulal Saklecha, aged about 83 years, R/o Sadar Bazar Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)

---- Non-applicant

Hon'ble Shri Deepak Gupta, Chief Justice

Order On Board

24/06/2016

All the above referred transfer petitions have been filed by the tenants praying for transfer of the Civil Suits filed by Smt. Jugga Devi claiming to be the landlady of the premises. Two grounds have been raised for transfer of the case from the Court of Civil Judge, Class-I Dhamtari to some other Court.

2. The first ground raised is that the Civil Judge imposed costs of Rs.1000/- and this costs is highly disproportionate. It has been urged by the learned Senior Advocate that this amounts to harassment of the applicants. He also submits that Order XX-A of the Code of Civil Procedure, 1908 (for short 'the Code') prohibits award of costs which is so excessive. The next ground is that one Shri Ravindra Kumar Nanda has also filed a petition for eviction of the present applicants from the same premises on the ground that he is the landlord, and therefore, both the petitions should be consolidated and transferred to one Court.

3. Surprisingly, though the main ground taken in the petitions is that the Court is harassing the applicants/tenants by imposing such excessive costs, the order imposing costs has not been annexed with the petition. What was annexed with the petition is only a receipt showing the payment of Rs.1000/- as costs. But, how does a Court ascertain whether the costs are reasonable or not. This can be ascertained only after going through the order whereby the costs are imposed.

4. I am constrained to observe that this material document has been withheld from the Court. This Court after hearing the applicants had directed the applicants to produce the respective orders passed by the Civil Judge imposing the costs. The impugned order, which is a detailed order running into three pages, shows that landlady is now 83 years old and has filed eviction petition 23 years back. The learned Civil Judge has noted that on one pretext or the other the tenants are delaying and prolonging the

proceedings. The petition filed by the petitioners was under Section 193 of the I.P.C. in which it was alleged that the landlady had made false averments and committed perjury. The learned Court, after going through the record and documents came to the conclusion that it is totally false allegation. Therefore, the Court below held that no offence of perjury has been committed by the landlady. If false charges are levelled against the party, especially a party who is 83 years old, then the Court was fully justified in imposing costs upon the other party. The landlady must have paid fees to her counsel and incurred many other expenses. Valuable time of the Court and parties was taken in disposal of these applications. Therefore, I am of the considered opinion that the costs imposed against the applicants are reasonable.

5. Reliance is placed by the Senior Advocate on Order XX-A of the Code to urge that the costs imposed upon the applicants are disproportionate. Order XX-A of the Code reads as follows:

“Provisions relating to certain items.--- Without prejudice to the generality of the provisions of this Code relating to costs, the Court may award costs in respect of,--

(a) expenditure incurred for the giving of any notice required to be given by law before the institution of the suit;

(b) expenditure incurred on any notice which, though not required to be given by law, has been given by any party to the suit to any other party before the institution of the suit;

(c) expenditure incurred on the typing, writing or printing of pleadings filed by any party;

(d) charges paid by a party for inspection of the records of the Court for the purposes of the suit;

(e) expenditure incurred by a party for producing witnesses, even

though not summoned through Court; and

(f) in the case of appeals, charges incurred by a party for obtaining any copies of judgments and decrees which are required to be filed along with the memorandum of appeal.”

6. Order XX-A of the Code only says that costs must be reasonable and must be compensation to other party for expenditure incurred by it. Even in contesting a case for perjury the expenditure would be more than Rs.1000/-, and therefore, there is no unreasonableness in awarding of costs. Therefore, the citation of the petitioners that the imposition of costs shows prejudice on the part of the learned Presiding Officer is wholly misplaced and is accordingly rejected.

7. Last submission made by the Senior Counsel is that one Ravindra Kumar Nanda has filed another case against the petitioners claiming to be owner of this very property. I fail to understand why an application for consolidation of cases has not been filed but it is only prayed that suit of the non-applicant must be transferred to some other Court. This clearly shows that the interest of the petitioners is only to delay the litigation on one pretext or the other. Therefore, I find no merit in these transfer petitions.

8. With the aforesaid observation, the transfer petitions are dismissed in limine.

Sd/-
(Deepak Gupta)
Chief Justice