

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 469 of 2016

1. Heeralal S/o Bulluram, Aged About 59 Years
2. Premlal, S/o Heeralal, Aged About 40 Years

Both are by Caste Sahu, R/o Village Kalmi, Tahsil Maalkharouda,
District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. Ahiliyabai Wd/o Suritram Aged About 32 Years
2. Gopal S/o Suritram, Aged About 14 Years (Minor)
3. Yamini D/o Suritram, Aged About 12 Years (Minor)

Respondent Nos.2 & 3 are Minor Through their Legal Representative
Ahiliya Bai (Mother) Wd/o Suritram

Respondent Nos.1 to 3 are by Caste Sahu R/o Vilalge Kalmi, Tahsil
Maalkharouda, District Janjgir Champa Chhattisgarh

4. State Of Chhattisgarh Through The Collector, District Janjgir Champa
Chhattisgarh

---- Respondent

For Petitioners	Shri Ishwar Jaiswal, Advocate
For Respondent-State	Shri Arun Sao, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

10/08/2016

1. In a partition suit filed by the respondent Nos.1 to 3, the petitioners moved an application under Order 1 Rule 10 CPC for impleadment of Nonibai, wife of petitioner No.1, Heeralal as defendant.

2. The trial Court has dismissed the application on the ground that in a suit for partition wherein the plaintiffs have alleged the property to be joint family property, wife of one of the co-parcener is not a necessary party during the life time of the said co-parcener i.e. petitioner No.1, Heeralal.
3. It is argued that the property is infact self acquired property of the defendant Nos.1 & 2, therefore, the wife of the petitioner No.1 is a necessary party.
4. If the petitioners' contention to the above effect is found proved in course of trial, the suit shall be dismissed on this ground alone. Conversely, if the petitioners fail to prove that the subject property is the self acquired property of petitioner No.1, Heeralal, his wife would not be a necessary party during his life time, therefore, in either condition, Nonibai would not be a necessary party in this suit.
5. The impugned order does not suffer from any error of jurisdiction or illegality. The writ petition is bereft of any substance, it deserves to be, and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala