

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 250 of 2016

1. Mahesh Jani S/o Late Gunwant Rai Jani, Aged About 49 Years R/o Kamthi Line, Town, Tahsil And District Rajnandgaon, (Chhattisgarh)

---- Petitioner

Versus

1. Smt. Suryamukhi Devi Rajgami Sampada Samiti, Rajnandgaon, Through: The Secretary, District Office Campus, Rajnandgaon, (Chhattisgarh)
2. Manager, Rajgami Sampada, District Office Campus, Rajnandgaon, (Chhattisgarh)

---- Respondent

For Petitioner
For Respondents

Shri V.K. Sharma, Advocate
Shri B.P. Gupta, Advocate with Ms. Richa Jain, Adv.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

14/06/2016

1. Petitioner (plaintiff) is the tenant of the respondent (defendant). The petitioner runs the bidi factory from the premises.
2. Challenge in this petition under Article 227 of the Constitution of India is to the order passed by the trial Court rejecting the petitioner's application under Order 1 Rule 10 of the Code of Civil Procedure ('the CPC' in short) and under Order 6 Rule 17 of the CPC for impleadment of Shri Santosh Agrawal; Shri Sachin Baghel; Shri Dinesh Gandhi; Shri Rajindar Pal Singh; and Shri Devvrate Singh, who are trustees of the defendant Trust.

3. It is argued by Shri Sharma, learned counsel appearing for the petitioner, that the property is owned by the Trust, however, the exorbitant increase in rent has been made by the trustees, therefore, they are necessary parties to the suit.
4. The trustees do not have any independent existence than the Trust itself. The interest of the Trust would be sufficiently taken care of by the Secretary through whom the Trust has been arrayed in the suit as defendant No.1. In addition, the Manager of the Trust has also been impleaded as defendant No.2. It is not the case of the plaintiff that in the event of non-joinder of the trustees, the suit would fail or that the suit cannot be adjudicated in the absence of trustees.
5. In a case where the trial Court has exercised its judicial discretion to reject the application for impleadment and the proposed defendants do not appear to be proper or necessary parties, this Court would not interfere with the exercise of judicial discretion by the trial Court in exercise of power under Article 227 of the Constitution of India.
6. Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

7. Having heard learned counsel for the parties and having perused the impugned order, this Court does not find any such illegality or perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.
8. Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed. Sd/-

Judge

Prashant Kumar Mishra

Gowri