

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (227) No.156 of 2016

Sarala Sharma, W/o Bhupendra Kumar Sharma, aged about 32 years, Caste Brahman, Resident of Village-Pendri, P.S. and Tehsil-Takhatpur, Dist. Bilaspur (CG)

---- Petitioner

Versus

1. Kalindi Bai W/o Late Giridhari Lal, aged about 53 years, Caste-Brahman, Resident of Village-Kuwan, P.O. Jorondha, P.S. and Tehsil-Takhatpur, Dist. Bilaspur (CG)
2. Santoshi Thakur, W/o Ashok Kumar, aged about 32 years, Resident of Village Uslapur, P.S. and Tehsil-Takhatpur, Dist. Bilaspur (CG)
3. Sahil Gupta S/o Santosh Gupta, aged about 25 years, Resident of Village-Gondpara, P.S and Tehsil-Takhatpur, Dist. Bilaspur (CG)
4. Rukmani Bai, W/o Mohanlal Tiwari, aged about 65 years, Resident of Village-Ghutarkudi, P.O. Chilfi, P.S. and Tehsil-Pandria, Distt.Kawardha (CG)

---- Respondents

For Petitioner : Mr.Dilip Kumar Swain, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

05/12/2016

1. Heard.
2. By the impugned order, the trial Court has rejected the the application filed by the petitioner/defendant No.1 under Order 7 Rule 11 of the CPC finding her earlier application under Order 7 Rule 11 of the CPC has already been decided and imposed cost of ₹ 6000/-.
3. After hearing learned counsel appearing for the petitioner at length, I do not find any error of jurisdiction in the order passed by the trial

Court. The trial Court has exercised the jurisdiction vested on it by rejecting the application.

4. 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 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.

5. Consequently, the writ petition being devoid of merit is liable to be

¹ (2003) 6 SCC 675

² (2010) 8 SCC 329

³ (2013) 9 SCC 374

and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K Agrawal)
Judge

B/-