

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WP227 No. 577 of 2016**

- Smt. Manorama Sharma W/o Late Shankar Sharma, Aged About 65 Years R/o In Front Of P.C. Bafna & Co Beside Of Samta Saree Ganjpara Durg District Durg Chhattisgarh
- Lokesh Sharma, S/o Late Shankar Sharma, Aged About 35 Years R/o In Front Of P.C. Bafna & Co . Beside Of Samta Saree Ganjpara Drug District Durg Chhattisgarh

---- Petitioners**Versus**

- Kewalchan Gogad (Dead) Through Legal Heir Dilip Kumar Gogad Dilip Kumar Gogad, S/o Late Kewalchand Gogad, Aged About 53 Yrs R/o Near Satti Chaura, Ganjpara Durg District Drug Chhattisgarh

---- Respondent

 For Petitioner : Mr. Ashish Surana, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Oral Order****26/09/2016**

1. This petition under Article 227 of the Constitution of India has been preferred by the petitioners / judgment debtor aggrieved by order dated 06.05.2016 passed by the Execution Court.
2. Learned counsel for the petitioners raised sole submission that despite objection having been taken to claim status of legal representatives on the basis of will, the learned Court below without requiring the other party to prove execution of will and that no will has been executed has allowed the application directing the applicant – Dilip Kumar to file affidavit. It is submitted that the respondent – Dilip Kumar has not even mentioned the name of legal representatives, the Court ought to have first directed to implead the name of legal representatives and have proceeded by directing to prove the will.
3. From perusal of the impugned order, it appears that the application is only allowed in part and direction has been issued for submitting

complete details of the legal representatives of deceased - decree holder on affidavit. It is shown that the Execution Court has not decided the issue finally and after submission of the relevant information with regard to the legal representatives, the petitioner is at liberty to move appropriate application in the matter raising all objections, which are available to it under the law, which are required to be decided by the Court below. If any objection with regard to will is raised, the same may also be decided in accordance with law.

4. With the said liberty the petition is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Chandra