

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 1080 of 2015**

1. Roop Sagar S/o Abhay Ram, Aged About 73 Years
2. Mahettar Ram @ Chandra Kumar, S/o Abhay Ram, Aged About 65 Years
Both R/o Village Tikri (Arjuni), Tahsil Gunderdehi, District Balod
(Chhattisgarh)

---- Petitioner**Versus**

1. Balram S/o Ludu Ram, Aged About 43 Years
2. Shyam Kumar, S/o Ludu Ram, Aged About 43 Years
3. Digvijay Kumar, S/o Ludu Ram, Aged About 49 Years
All R/o Village Tikri (Arjuni), Tahsil Gunderdehi, District Balod (CG)
(Claiming to be legal heir of Fuleshwari Bai/ Decree Holder)
4. Collector, Balod, District Balod (Chhattisgarh)
5. Tahsildar, Gunderdehi, District Balod (CG)
(The Respondent No. 4 & 5 have been made party because learned
Executing Court had sent the case under Section 54 of the C P C for
appropriate proceeding).

---- Respondents

For Petitioners	: Mr. P.P. Sahu, Adv.
For Respondents	: Not noticed.

Order On Board**11/04/2016**

1. At the outset, counsel for the petitioners submits that the impugned order dated 10-4-2015 is not a speaking order under the provisions of Section 47 read with Order 21 Rule 101 of the Code of Civil Procedure, 1860 (in brevity 'CPC') and other relevant substantive procedural laws as to determine the question as to who are the legal representatives of decree holder Phuleshwari Bai. Hence the Court below may be directed to rehear the matter only to the extent of deciding the issue as to who are the legal representatives of deceased Phuleshwari under the aforementioned provisions of law and to dispose of the application dated 15-2-2013 afresh by issuing show cause to Smt. Narmada, Smt. Krishna, Smt. Bhugyani and Smt. Chandramani arrayed as appellants along with Balram, Shyam Kumar and Digvijay Kumar before the Sub Divisional Officer, Balod in appeal under Section 47 of the CG Land Revenue Code wherein all those above 7 appellants claimed to be LRs of late Smt. Phuleshwari Bai.
2. On due consideration, after perusal of the impugned order dated 10-4-2015

and other documents annexed, it goes to show the court below has not passed a speaking order on the interim application given under Section 47 read with Section 151 of the CPC filed on behalf of the non-applicants/judgment debtor. The Court below was required to decide the question as to who are the LRs i.e. the above 3 applicant/Balram, Shyam Kumar and Digvijay or also aforementioned four persons namely Smt. Narmada, Smt. Krishna, Smt. Bhugyani and Smt. Chandramani. As submitted, they all filed memo of appeal under Section 44 of the CG Land Revenue Code before the Sub Divisional Officer, Balod. The Court below was required to decide the said question under the relevant provisions of Section 47 read with Order 41 Rule 101 of the CPC and other relevant procedural law applicable for determination of the LRs of the deceased decree holder. It would be appropriate to direct the court below to decide the issue as aforementioned afresh.

3. Consequently, instant writ petition is disposed of without entering into other facts of the impugned order, the part of the order relating to appreciation regarding as to who are LRs. of deceased Phuleshwari is quashed. The court below is directed to hear the matter regarding determination of question of LRs of deceased Phuleshwari as required by giving show cause to above alleged 4 daughters of deceased Phuleshwari and to decide the same afresh within 15 days from receipt of copy of this order. Rest of the order shall remain intact.
4. The petitioner may file copy of this order for compliance before the Court below. Registrar Judicial is also directed to send copy of this order to the Court below through usual and fax mode immediately.
5. No order as to costs.

Sd/-
(Chandra Bhushan Bajpai)
Judge