

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MA No. 83 of 2015

1. Bhupesh Kumar S/o Shri Ankaluram Kalar, Aged About 34 Years
2. Mukesh Kumar S/o Shri Ankaluram Kalar, Aged About 32 Years
3. Khilesh Kumar S/o Shri Ankaluram Kalar Aged About 28 Years
4. Puneshwar S/o Shri Ankaluram Kalar Aged About 30 Years

All R/o Village - Mohara, Tahsil-Gurur, Civil And Revenue District- Balod Chhattisgarh

---- Appellants

Versus

1. Tiharu Ram S/o Late Pyari Sinha, Aged About 45 Years Occupation - Agriculturist, Resident Of Village Mohara, Tahsil -Gurur, Civil And Revenue Distt.- Balod (Chhattisgarh), Presently Resident At-Housing Board Colony, Hatkeshar Ward, Dhamtari, Civil And Revenue District Dhamtari Chhattisgarh
2. Smt. Jayantri Bai W/o Shri Heeralal Kalar Aged About 53 Years
3. Heeralal Aged About 58 Years

Respondents No. 2 & 3 are R/o Village-Mohara, Tahsil- Gurur, Civil And Revenue District -Balod Chhattisgarh

---- Respondents

For Appellants : Shri M.K. Bhaduri, Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/01/2016

Heard.

1. Learned counsel for the appellants submits that an application for dropping proceedings initiated under Order 39 Rule 2-A CPC has been rejected by the

Court below vide order dated 4.7.2015. He submits that as there are observations against the appellants, this appeal is maintainable under Order 43 Rule 1 CPC .

2. Order dated 4.7.2015 is not an order in terms of provision contained in Order 39 Rule 2-A CPC so as to say that there is an order of attachment recording a finding of disobedience or an order of sending the appellants to the civil jail.
3. Upon initiation of proceedings under Rule 2-A of Order 39 CPC, the appellants moved application that the proceedings may be dropped. It is that application which has been rejected. The observations which have been made in the impugned order are only for the limited purpose of rejecting the application of dropping the proceedings and that by itself does not amount to an order passed under Order 39 Rule 2-A CPC. Therefore, this appeal is not maintainable. However, if the appellants intend to challenge the order dated 4.7.2015, liberty is reserved to them to take recourse to such remedy as may be available to them under the law.
4. The appeal is accordingly dismissed as not maintainable.
5. Certified copy of the impugned order dated 4.7.2015 (Annexure A-7) be returned to the appellants after retaining photocopy of the same.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge