

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MA No. 72 of 2016**

1. Ajay Agrawal S/o Shri Ramulal Agrawal, Aged About 50 Years
2. Sushma Agrawal W/o Ajay Agrawal, Aged About 44 Years
3. Jigyasu Agrawal S/o Ajay Agrawal, Aged About 22 Years

All R/o Barejpara, Ambikapur District- Surguja, CG .....(Plaintiffs)

---- Appellants

**Versus**

1. Smt. Rama Gupta W/o Sushil Gupta, Aged About 52 Years R/o Post Office Road, Bihi-Badi, Ambikapur, P.S. & Tehsil Ambikapur, District Surguja, Chhattisgarh .....(Defendant No.1)
2. State Of Chhattisgarh, Through Collector Ambikapur Collectorate Premises, District Surguja, Chhattisgarh .....(Defendant No.2)
3. Akhilesh Pratap Singh S/o Shri Awdheshwari Pratap Singh, Aged About 42 Years R/o Babupara, Ambikapur, P.S. & Tehsil Ambikapur, District Surguja, Chhattisgarh .....(Proposed Defendant No.3)

---- Respondents

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| For appellants             | : | Mr. Khitij Sharma, Adv.  |
| For Respondent No. 1 and 3 | : | Ms. Priyanka Mehta, Adv. |
| For Respondent No. 2/State | : | Mr. Ramakant Pandey, PL  |

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**ORDER ON BOARD****30/11/2016**

1. After perusal of para 7 and 8 of the impugned order dated 28-7-2016 passed by the Court below, it appears that a prayer to implead one Akhilesh Pratap Singh by filing application under Order 1 Rule 10, CPC was allowed by a separate order dated 28-7-2016 and the Court below observed in para 11 that R-1 has sold the property in question to Akhilesh Pratap Singh and also delivered possession which goes to show the impugned order was passed without hearing said Akhilesh Pratap Singh on I.A. No. 5. With this, the order does not effectively cover him as required by providing opportunity to hear every necessary party for the prayer made by the appellant/plaintiff under Order 39 Rule 1 and 2 read with Section 151 of the CPC but as the said Akhilesh Pratap Singh was impleaded as party in the said civil suit, the impugned order passed by the Court below requires interference as the same is not passed after affording opportunity

of hearing to the necessary party.

2. On due consideration, looking to the above facts, it would be appropriate to afford an opportunity to hear the said Akhilesh Pratap Singh on I.A. No. 5 and thereafter it would be appropriate to pass the order afresh.
3. Consequently, impugned order dated 28-7-2016 is hereby set aside. The Court below is directed to afford opportunity to said Akhilesh Pratap Singh in I.A. NO. 5 after necessary impleadment, pleadings by the parties concerned as required under the law including said Akhilesh Pratap Singh, and the Court below is directed to rehear the parties including said Akhilesh Pratap Singh afresh without being influenced by the impugned order dated 28-7-2016 on the strength of entire merit of the case as presented by the parties under the law. The court below is directed to decide I.A. No. 5 afresh as expeditiously as possible preferably within 2 months from the next date of hearing.
4. Parties may file copy of the order to the lower court for compliance.
5. Registrar (Judicial) is also directed to send a copy of the order to the Court below for compliance.
6. MA is accordingly disposed of. No order as to costs.

Sd/-  
(Chandra Bhushan Bajpai)  
Judge