

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WP227 No. 903 of 2015

1. Rajaram S/o Nandu, Aged About 45 Years R/o Village Okara, Police Station & Tahsil Rajpur, District Balrampur- Ramanujganj, (Chhattisgarh).....(Defendant)
2. Bhola, S/o Shri Rajaram, Aged About 30 Years R/o Village Okara, Police Station & Tahsil Rajpur, District Balrampur- Ramanujganj, (Chhattisgarh).....(Defendant).
3. Smt. Saitalo, W/o Shri Rajaram, Aged About 40 Years R/o Village Okara, Police Station & Tahsil Rajpur, District Balrampur- Ramanujganj, (Chhattisgarh).....(Defendant).
4. Smt. Raitalo, W/o Jaykaran, Aged About 42 Years (Wrongly Mentioned As 421 Years In Cause Title of Order Sheet), R/o Village Okara, Police Station & Tahsil Rajpur, District Balrampur- Ramanujganj, (Chhattisgarh).....(Defendant). **--- Petitioners**

Versus

1. Smt. Gita Devi W/o Devkaran Singh, Aged About 32 Years R/o Village Karsi, Police Station And Tahsil Pratappur, District Surajpur, (Chhattisgarh).....(Plaintiff).
2. State of Chhattisgarh, Through: The Collector, Balrampur, District Balrampur- Ramanujganj, (Chhattisgarh).....(Plaintiff) **---- Respondents**

26.09.2016	Mr. Bhupendra Singh, counsel for the applicant. Mr. B.P. Sharma with Mr. M. L. Sakat, counsel for the respondent No.1. Mr. Majid Ali, Panel Lawyer, for the State. By this writ petition filed under Article 227 of the Constitution of India, the petitioner has prayed for setting aside the impugned order dated 01.09.2015 (Annexure P-1) passed by the learned trial Court in Civil Suit No.10A/2014. Brief facts of the case are that plaintiff/ Respondent No.1 Gita Devi filed a civil suit seeking permanent injunction against the petitioners wherein the petitioners filed reply along-with an application under Order 1 Rule 10(2) of CPC for impleading Dasai Ram as party respondent, however, the learned trial Court by impugned order has rejected the said application stating that the plaintiff has right	

to make the party against whom the suit has to be filed.

Learned counsel for the petitioners submits that since Dasai Ram son of Bhagat Gond is necessary party to the suit, the application filed by the petitioners under Order 1 Rule 10 (2) of CPC for impleading Dasai Ram is liable to be allowed and the the trial Court has committed legal error in rejecting the said application.

Perused the application filed under Order 1 Rule 10(2) of CPC wherein the petitioners have sought to implead Dasai Ram as party.

The reply of the petitioners would go to show that only to protract the trial, such an application was filed.

It is settled law that the plaintiff is *dominus litus* in the suit and he cannot be forced to make someone as party on a simple application. Here in this case since the respondent plaintiff Gita Devi has refused to join Dasai Ram as party and the consequences, if any, shall have its own effect therefore, if the respondent/plaintiff does not want to make a particular person as party, he/she cannot be forced to implead.

I am of the view that the trial court has not exceeded its jurisdiction vested in it by law as the impugned order does not suffer any jurisdictional error or legal infirmity warranting interference by this Court.

Accordingly, the petition has no force and is dismissed.

Sd/-
GOUTAM BHADURI
JUDGE