

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (227) No.329 of 2010**

1. Shri Sarveshwari Samuh, village Padav, Post Kushtha Sewashram, Varanasi, Through: Gurupad Sambhavji, President, Shri Sarveshwari Samuh, village Padav, Post Kushtha Sewashram, Varanasi (Uttar Pradesh), through: power of attorney holder namely Krishna Tappu Singh, aged about 32 years, Tathakathit Vyavasthapak, Shri Sarveshwari Samuh, Sogda Ashram, Police Station & Tahsil Jashpur, District Jashpur (CG)
2. Krishna Kumar, S/o Balkrishna Singh @ Tappu Singh, aged about 32 years, Tathakathit Vyavasthapak, Shri Sarveshwari Samuh, Sogda, Ashram, Police Station & Tahsil Jashpur, District Jashpur (CG)

---- Petitioners

Versus

- 1a. Sharda Pandey W/o Late Shivpujan Pandey, aged about 60 years,
 1b Bamdev Pandey S/o Late Shivpujan Pandey, aged about 45 years,
 All above R/o Sakin Manora, Tahsil Manora, District Surguja (CG)

2. State of Chhattisgarh, through Collector, Jashpur, District Jashpur (CG)

---- Respondents

For petitioners	:	Mr.Manoj Paranjape, Advocate
For Res.1a and 1b	:	Mr.Shailendra Dubey, Advocate
For State	:	Mr.Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board27/04/2017

Heard.

1. Learned counsel for the petitioners would submit that the trial Court has rejected the petitioners application for taking issue No.10 and 11 as preliminary issue and directed that issues should be tried along with other issues and at the same time recorded finding on those issues, which are not in accordance with law.

2. I have heard learned counsel for the parties.
3. By the impugned order, the trial Court has held that issues No.10 and 11 will be decided on its own merit in accordance with law at the conclusion of the trial. However, observation/finding has also been recorded in the impugned order on the merits of the issue. The trial Court while holding that issue No.10 and 11 will be tried along with other issues should not have recorded a finding/observation on those issues that will certainly prejudice the right of the petitioner.
4. In view of above, it is directed that issue No.10 and 11 will be decided on the basis of evidence recorded by the parties and material available on record along with other issues, without being influenced by the impugned order dated 12.1.2010 and finding/observation recorded in the said order.
5. With the aforesaid observation, the writ petition finally stands disposed of.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-