

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.212 of 2017

1. Smt. Fhatkan Bai, aged about 47 years, W/o Panchram (father in law Bodhiram).
2. Smt. Jaymati, aged about 45 years, W/o Dhanshyam Kumar (father in law Bodhiram)

Both by Caste Patel (Marar) by Occupation Agriculturist, R/o Village Fhaguram, Thana and Tahsil Malkharoda, Distt. Janjgir Champa

(Plaintiffs)
---- Petitioners

Versus

1. State of Chhattisgarh, through its Collector, Janjgir, Distt. Janjgir Champa
2. Brij Bai, aged about 50 years, W/o Dwarika,

R/o Village Badedevgaon, Tahsil Kharasiya, Distt. Raigarh.
3. Rambai, aged about 40 years, W/o Panikaram, R/o Village Chapre, Tahsil Kharasiya, Distt. Raigarh.
4. Nanki Noni, aged about 35 years, W/o Durahu, R/o Village Rajghata, Tahsil Kharasiya, Distt. Raigarh
5. Netkumar, S/o Girdhari,
6. Digamber, S/o Girdhari,

Respondent No.5 to 6 by Caste Jaiswal, R/o Village Bhalunara, Post Dehjadi, Tahsil Kharasiya, Distt. Raigarh, C.G.

(Defendants)
---- Respondents

For Petitioners:	Mr. Parag Kotecha, Advocate.
For Respondent No.1 / State: -	Mr. S.M. Ali, Panel Lawyer.
For Respondents No.2, 3 and 4: -	Mr. R.N. Jha, Advocate.
For Respondents No.5 and 6: -	Mr. Sameer Oraon, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/04/2017

1. The plaintiffs/petitioners call in question legality, validity and correctness of the order dated 23-1-2017 passed by the Civil Judge Class-II, Malkharoda, Distt. Janjgir-Champa in Civil Suit No.23-A/2010, by which three additional issues have been framed and the case has been reopened for plaintiffs' evidence.
2. Learned counsel for the plaintiffs/petitioners submits that the plaintiffs and the defendants both have adduced their evidence and the case was fixed for final argument on 26-11-2016 and again it was fixed on 3-12-2016, 8-12-2016 and 16-12-2016 and ultimately, on 16-12-2016, defendants No.5 to 7 (therein) filed an application for framing additional issues, that has been allowed and the case has been reopened which is not permissible in law.
3. On the other hand, learned counsel for the respondents would support the impugned order.
4. I have heard learned counsel for the parties and perused the impugned order as also the copies of other order sheets annexed with the writ petition with utmost circumspection.
5. The suit was filed way back on 17-8-2006 and with great difficulty, parties have closed their evidence and the case was fixed for final hearing on 26-11-2016, but it could not be heard and again thrice the matter was adjourned for final argument. Thereafter, the application under Order 14 Rule 5 of the CPC has been allowed.
6. The issues framed are with regard to maintainability of suit that

whether the suit is barred under Section 257 of the Chhattisgarh Land Revenue Code, 1959; whether the plaintiffs have any right to file evidence; and whether the suit is not maintainable without declaring that Panchram and Ghanshyam have suffered civil death. These points have already been taken in the written statement by defendants No.5 to 7 (therein) and it was not pressed for last ten years for framing additional issue. When the case is fixed for final hearing after ten years from the date of institution of suit, only in order to arrest and obstruct the conclusion of suit, such an application has been filed which has been allowed. Even otherwise, such points can be raised in the course of argument. Therefore, the impugned order is set aside and the trial Court is directed to hear the final argument and conclude the hearing of suit within 45 days from the date of receipt of a copy of this order. All legal points can be raised during the course of argument.

7. The writ petition is allowed to the extent indicated herein-above.

No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge