

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WP227 No. 320 of 2017

1. Sanad Kumar S/o Shri Gulabchand Gayakwad, Aged About 32 Years Caste Satnami

2. Kamlesh S/o Shri Gulabchand Gayakwad, Aged About 28 Years Caste Satnami,

Both are R/o Village Sukhri, P. H. No. 11, P. O. Matwari, Police Station Utai, Outpost Machandur, Tahsil Gunderdehi, District Balod (Chhattisgarh).

---- Petitioners

Versus

1. Satish Kumar S/o Shri Dashraj Gayakwad, Aged About 31 Years Caste Satnami,

2. Yogendra Kumar S/o Shri Dashraj Gayakwad, Aged About 28 Years Caste Satnami,

3. Gulabchand Gayakwad S/o Late Shri Arjun Singh Gayakwad, Aged About 60 Years Caste Satnami, R/o Village Sukhri, P. H. No. 11, P. O. Matwari, Police Station Utai, Outpost Machandur, Tahsil Gunderdehi, District Balod (Chhattisgarh).

4. Dashraj Singh S/o Late Shri Arjun Singh Gayakwad, Aged About 54 Years Caste Satnami,

All are R/o Village Sukhri, P. H. No. 11, P. O. Matwari, Police Station Utai, Outpost Machandur, Tahsil Gunderdehi, District Balod (Chhattisgarh).

5. State Of Chhattisgarh, Through Collector, Balod, District Balod (Chhattisgarh)

6. Narottam S/o Gulabchand Gayakwad, R/o Village Sukhri, P. H. No. 11, P. O. Matwari, Police Station Utai, Outpost Machandur, Tahsil Gunderdehi, District Balod (Chhattisgarh)._

---- Respondents

For Petitioners	:	Mr.T.K.Jha, Advocate
For Respondent No.5	:	Mr.Aditya Sharma, P.L.
For Respondent No.6	:	Mr.B.P.Singh, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

10/7/2017

1. By the impugned order, the trial Court has allowed the application filed by respondent No.6 under Order 1 Rule 10 of the CPC, against which, this writ petition under Article 227 of the Constitution of India has been filed.
2. Learned counsel for the petitioners would submit that respondent No.6 has already filed the suit bearing Civil Suit No.1-A/2014 and therefore, his remedy is to file an application for consolidation as he is neither necessary nor proper party, therefore, the impugned order deserves to be set aside.
3. On the other hand, learned counsel for respondent No.6 would support the impugned order.
4. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. Undisputedly, respondent No.6 has filed separate civil suit, which reflects in his application under Order 1 Rule 10 of the CPC with respect of the suit land. The plaintiffs are *dominus litis* and since respondent No.6 has filed separate civil suit claiming specific relief, the order of the trial Court directing impleadment of respondent No.6 as party defendant in the instant case deserves to be and is hereby set aside. Respondent No.6 is at liberty to proceed in accordance with law.
6. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

B/-