

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 209 of 2016

Tillumal Alias Sanjay Mohnani S/o Chuhadmal Mohnani, Aged About 62 Years
Proprietor Usha General Stores, Shop No. 02, Indira Market, Durg, District Durg
Chhattisgarh R/o Sindhi, Colony, P.S. City Kotwali, Civil & Revenue District Durg
Chhattisgarh

---- Petitioner

Versus

1. Mohammad Suberati S/o Late Gulam Kadar, Aged About 60 Years R/o Plot 13,
Indira Market Durg, Tahsil & District Durg Chhattisgarh
2. Municipal Corporation Durg, Through B.L. Kesharwani Officiating Health Officer
Municipal Corporation Durg, Tahsil And District Durg Chhattisgarh
3. State Of Chhattisgarh Through The Collector, Durg, District Durg Chhattisgarh

---- Respondents

Shri Ramkumar Tiwari, counsel for the petitioner/s.
Shri V.G.Tamaskar, counsel for respondent No.1.
Shri Satish Gupta, counsel for respondent No.2.
Shri Aditya Sharma, Panel Lawyer for the State / respondent No.3.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

08/03/2017

This petition is directed against order dated 12/02/2016 passed by the Court below whereby the petitioner's application for impleadment as party under Order 1 Rule 10 CPC has been rejected.

2. Learned counsel for the petitioner submits that in exercise of liberty granted by this Court vide order dated 23/09/2014 and order dated 25/02/2015, the petitioner moved an application under Order 1 Rule 10 CPC, therefore, rejection of the application on the ground that earlier, application was already rejected on 30/11/2013 is not justified.

3. After having gone through the pleadings and order passed by this Court on earlier occasions in the petition as well as in MCC, this Court is of the opinion that

the present petition is a frivolous one.

4. The petitioner had filed a petition under Article 227 of the Constitution of India registered as WP(227) No.923/2013 aggrieved by order dated 30/11/2013 rejecting his application for impleadment as party. That petition was dismissed as withdrawn on 23/09/2014 with liberty to file a duly constituted writ petition. Thereafter, an application seeking clarification review was filed and registered as MCC No.834/2014, changing the cause title and description of the petition. This fact was noticed by the Court. The MCC was dismissed having no merit clearly recording that order dated 23/09/2014 does not suffer from any apparent error.

It has to be observed that petitioner's claim that petitioner had sought liberty to file fresh application under Order 1 Rule 10 CPC was not appreciated in order dated 25/02/2015. The petitioner, without having such liberty to file fresh application under Order 1 Rule 10 CPC and without filing a fresh writ petition in exercise of liberty granted vide order dated 23/09/2014, filed a misconceived application for impleadment before the Trial Court which has rightly been rejected.

5. The application filed before the Court below and this petition, are as frivolous, as it could be. Therefore, this petition is dismissed with a cost of Rs.5,000/-.

Sd/-
(Manindra Mohan Shrivastava)
Judge