

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 4493 of 2008**

1. Smt. Shanti Vishwakarma, Wd/o Late Shyamji Vishwakarma, aged about 58 years.
 2. Pankaj Vishwakarma, S/o Late Shyamji Vishwakarma, aged about 29 years.
 3. Ku. Pallavi Vishwakarma, D/o Late Shyamji Vishwakarma, aged about 27 years.
- Plaintiffs**

All resident of House No.617/631, "Matri-Chhaya", Ward No.50, Chhattisgrh Nagarh, Tikrapara, Raipur, Tahsil & District Raipur (C.G.)

---- Petitioners**Versus**

1. Smt. Maina Jain, W/o Shri Vijay Kumar Jain, aged about 43 years, resident of D/11, Tagore Nagar, P&T Colony, Raipur, Tahsil and District Raipur (C.G.)
2. Shri Vijay Kumar Jain, S/o Shri Ratan Chand Jain, aged about 50 years, resident of D/11, Tagore Nagar, P&T Colony, Raipur, Tahsil and District Raipur (C.G.)
3. Shri Pramod Kumar Kapse, S/o Late Shri Namdeo Kapse, aged about 42 years, resident of Late Shri Namdeo Kapse, Vinay Complex, Nayapara, Raipur, Tahsil and District Raipur (C.G.)

---- Respondents

For Petitioners	:	Mr. A.K. Prasad, Advocate.
For Respondents No.1 & 2	:	Mr. Hari Agrawal, Advocate.
For Respondent No. 3	:	Mr. Malay Kumar Bhaduri, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****30/11/2017**

(1) By the impugned order dated 17.07.2008, the petitioner's application under Section 151 of the Civil Procedure Code (henceforth "CPC") has been rejected.

(2) Learned counsel for petitioners would submit that the petitioner's application under Section 65 of the Indian Evidence Act dated 22.08.2007 has never been decided by the trial Court.

(3) Per contra, Shri Hari Agrawal, counsel for respondents No.1 & 2 would submit that the petitioner's application has been decided and allowed on 13.02.2008 and that has been reiterated by order dated 01.04.2008, therefore, the petitioner's application under Section 151 of the CPC has rightly been rejected by the trial Court on 17.07.2008, which does not call for any interference.

(4) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and gone through the record with utmost circumspection.

(5) A careful perusal of the order dated 13.02.2008 would show that the petitioners' application under Section 65 of the Indian Evidence Act has partly been allowed by the trial Court and the petitioners did not challenge the order dated 13.02.2008, therefore, same has become final and the order dated 13.2.2008 has been reiterated by order dated 01.04.2008, therefore, I do not find any illegality or perversity in the order impugned rejecting the petitioner's application under Section 151 of the CPC warranting interference by this Court under Article 227 of the Constitution of India.

(6) Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

(Sanjay K. Agrawal)
Judge

D/-