

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR No. 80 of 2016

1. Smt. Geeta Rathore W/o Shri Mukesh Rathore, aged about 55 years, R/o Keshkal, Tahsil Keshkal, District Kondagaon (Chhattisgarh)
Defendant

---- Applicant

Versus

1. Murti Bai Wd/o Late Ramcharan Lal Singh, aged about 70 years, R/o Village Dongargarh, District Rajnandgaon (Chhattisgarh) C/o Shri Lal Viren Singh, Bhagat Ward, Near Bus Stand Dongargarh, District Rajnandgaon (Chhattisgarh)
2. Mukesh Rathore, S/o Late Ramcharan Lal Singh, aged about 50 years R/o Village Keshkal, District Kondagaon (Chhattisgarh)
3. Smt. Mamta Chandrakar, W/o Shri Pawan Chandrakar, aged about 40 years, Caste - Kurmi, R/o Village Surdongar, Tahsil Keshkal, District Kondagaon (Chhattisgarh)
4. Smt. Hema Chopda, W/o Shri Deepak Chopda, aged about 35 years, R/o Keshkal, District Kondagaon (Chhattisgarh)
5. Saurabh, S/o Shri Mukesh Rathore, aged about 25 years, R/o Village Keshkal District Kondagaon (Chhattisgarh).....(Plaintiff)
6. Vishal, S/o Shri Mukesh Rathore, aged about 22 years, R/o Village Keshkal District Kondagaon (Chhattisgarh).....(Plaintiff)
7. State of Chhattisgarh, Collector District Kondagaon (Chhattisgarh).....
(Defendant)

---- Non-applicants/Respondents

For Applicant – Mr. Aman Kesharwani, Advocate.

For Respondent No.7 – Ms. Shobha Kashyap, Deputy Govt. Advocate, on
advance copy.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

14-02-2017

1. Heard on admission.
2. The instant civil revision has been preferred against the order passed by the Court below dated 25-02-2016 whereby and whereunder the Court below allowed the application under Order 1 Rule 10 of the CPC filed by defendant D-4 and D-5 as the same is consequential in nature. By filing the instant revision the said D-6/present applicant had submitted that the said order may be set aside as she is not proper party in the matter.

3. Learned counsel for the applicant would submit that the matter may be admitted for hearing and disposed of accordingly.

4. This is a civil revision preferred under the provision of Section 115 of the CPC. Section 115 of the CPC is reproduced here for relevance:-

"115. Revision.- (1) The High Court may call for the record of any case which has been decided by any court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings.

(2) The High Court shall not, under this section vary or reverse any decree or order against which an appeal lies either to the High Court or to any court subordinate thereto.

(3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.

Explanation .- In this section, the expression "any case which has been decided" includes any order made, or any order deciding an issue, in the course of a Suit or other proceeding. "

5. From perusal of the above, it appears that the revision may lie if "it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings."

6. The Court below finds the prayer for impleadment of the applicant under the provision of Order 1 Rule 10 of the CPC as it was consequential in nature, even otherwise by the said order the said civil suit was not finally disposed of as after impleadment of any party, the said party has legal right to raise the issue of necessary party and also to raise other issues regarding non-maintainability of said matter against him. Simply by perusal of Annexure A-1, it does not appear that the present applicant ever approached to the court for

adjudication of issues and grounds available to her, even after perusal of Annexure A-1, it does not indicate that the said certified copy is in connection with which matter pending before which court, simply the order dated 25-02-2016 is mentioned, no any description of the said matter is given.

7. On due consideration, the instant CR is having no substance, not worth for admission as the revision is not maintainable for the reasons aforementioned. Consequently, the CR is dismissed at the motion stage itself.

8. Revision dismissed.

9. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE