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HIGH COURT OF CHHATTISGARH, BILASPUR

M. A. No. 636 OF 2006

1. Smt. Kamla Bai, aged about 75 years, wife of Late Pandit Ram Nihor Pandey resident of Budheshwar Mahadeo Mandir, Raipur (Chhattisgarh).
2. Dev Mani Pandey, aged about 54 years, son Late Pandit Ram Nihor Pandey, resident of Near Duttatraya Mandir, Bramhapuri, Raipur (Chhattisgarh).
3. Raj Mani Pandey, aged about 51 years, son Late Pandit Ram Nihor Pandey, resident of Near Hanuman Mandir, Bramhapuri, Raipur (Chhattisgarh)
4. Balmukund Pandey, aged about 40 years, son Late Pandit Ram Nihor Pandey, resident of Near Duttatraya Mandir, Bframhapuri, Raipur (Chhattisgarh).
5. Mahesh Pandey, aged about 35 years, son Late Pandit Ram Nihor Pandey, resident of Shri Budheshwar Mahadev Mandir, Raipur (Chhattisgarh)
6. Pandit Santosh Pandey, aged about 32 years, son Late Pandit Ram Nihor Pandey, resident of Shri Budheshwar Mahadeo Mandir, Raipur (Chhattisgarh)
7. Smt. Premadevi Tiwari, aged about 47 years, daughter of Late Pandit Ram Nihor Pandey, wife of Harnarayan Tiwari, resident of Mahamai Para, Raipur (Chhattisgarh),
8. Smt. Kaushilya Devi Pandey, aged about 38 years, daughter of Late Pandit Ram Nihor Pandey, resident of Bramhpuri, Raipur (Chhattisgarh),
9. Smt. Annupurna Tripathi, aged about 32 years, daughter of Late Pandit Ram Nihor Pandey, wife of Shri Surendra Tripathi, resident of Gudhiyari Pahadi, Raipur (Chhattisgarh).

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Versus

1. Shri Raipur Pustikar Samaj (Trust), Shri Budheshwar Mahadeo Mandir, Aminpara Ward, Bramhpuri, Raipur (Chhattisgarh).
2. Shri Vivek Amin, son of Hari Bhau, aged about 25 years, Sahayak Pujari, Shri Budheshwar Mahadeo Mandir, Bramhpuri, Raipur (Chhattisgarh),
3. Ram Nihor Pandey (Died on 2.10.05)

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For appellants	:	Mr. H.B. Agrawal, Sr. Advocate with Ms. Prabha Sharma, Advocate
For Respondent No. 1	:	Mr. Anurag Verma, Advocate



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Hon'ble Shri Justice Sanjay Agrawal

Judgment On Board

27/03/2017

Heard on admission.

1. This is a miscellaneous appeal filed under Section 27(3) of the Chhattisgarh Public Trust Act, 1951 by questioning the order dated 21/03/2006 passed by 11th Additional District Judge (F.T.C.) Raipur.
2. Undisputed facts of the case are that a proceeding was initiated by respondent No. 1 as per the provisions prescribed under Section 26(1) of the C.G. Public Trust Act, 1951. During the pendency of the said proceeding, an application was made by one Santosh for his impleadment in the said proceeding under Order 1 Rule 10(2) read with Section 151 of the CPC. In the said proceeding, an application under Order 22 Rule 4 of the CPC was also made by legal representatives of deceased non-applicant No. 2 namely Ram Nihor Pandey. Applicant/respondent No. 1 has also submitted an application for withdrawal of the proceedings under Order 23 Rule 1 of the CPC.
3. After considering all the aforesaid applications, the Court below has rejected the applications, which were filed under Order 1 Rule 10(2) read with Section 151 of the CPC and also an application, which was filed Order 22 Rule 4 of the CPC on the ground that since an application for withdrawal of the said proceedings itself was made and, the applicant/respondent No. 1 was permitted for withdrawal of the proceeding while exercising the powers under Order 23 Rule 1 of the CPC.
4. Taking into consideration the facts and circumstances of the case, particularly, when the applicant- Shri Raipur Pustikar Samaj (Trust) has



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withdrawn his entire proceedings therefore, nothing survived in the proceedings itself. Consequently, the appeal as filed is not maintainable and also being devoid of merits, is hereby dismissed at admission stage itself.

No order as to costs.

Sd/-
(Sanjay Agrawal)
Judge

Yogesh