

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 519 of 2017**

Shri Jaganath Mandir Estal (Trust) Through its President-  
Munuram Patel, S/o Shambhuram Patel, Aged about 66 years,  
R/o Village Ektal, Tehsil – Pusaur, District – Raigarh (C.G.)

---- **Petitioner****Versus**

1. Diwakar Mirdha, S/o – Padru Mirdha, Aged about- 70 years, R/o-  
Gram Ektal, Tahsil Pussore, District – Raigarh (C.G.)
2. Dayalu Mirdha, S/o Tokel Mirdha, Aged about 45 years, R/o  
Village- Ektal, Tehsil- Pusaur, District – Raigarh (C.G.)
3. Smt. Manjulata Sinha, W/o Kamlesh Prasad Sinha, Aged about  
52 yers, R/o Chote Atarmuda, Tehsil and District – Raigarh (C.G.)
4. Balkishan Kedia, S/o Jagdish Prasad Kedia, Aged about 43 years,  
R/o Savitri Nagar, Kotra Road, Tehsil and District – Raigarh (C.G.)
5. Suresh Kumr Agrawal, S/o Tuhiram Agrawal, Aged about 48  
years, R/o Village- Jagatpur, Tehsil and District – Raigarh (C.G.)
6. Anil Kumar Agrawal, S/o Mohanlal Agrawal, Aged about 32 years,  
R/o Gaurishankar Mandir Road, Tehsil and District – Raigarh  
(C.G.)
7. State of Chhattisgarh, Through the Collector, Raigarh, District-  
Raigarh (C.G.)

---- **Respondents**


---

For Petitioners : Mr. Rohit Sharma, Advocate.  
For Respondent No. 1 : Mr. Manoj Paranjpe, Advocate.  
For Respondent No. 7 : Mr. Arvind Dubey, Panel Lawyer.

---

**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****12/09/2017**

(1) By the impugned order dated 01.02.2017, the application filed  
by respondents No. 1 to 6 for impleading them as a party in the suit has

been allowed by the trial Court, against which instant writ petition under Article 227 of the Constitution of India has been filed questioning the same.

(2) Learned counsel appearing for the petitioner would submit that though it is a 'representative suit' declared by the court under Order 1 Rule 8 of the CPC on 13.05.2010 and directed for paper publication of the same and subsequently the paper publication was done in the daily newspaper on 08.04.2014. He submits that proposed respondent – Diwaker Mirdha is neither proper party nor necessary party for just decision of the suit and, therefore, impleadment application ought not to have been allowed by the trial Court and the trial Court has committed illegality in allowing the application filed under Order 1 Rule 10 of the CPC. He placed reliance upon the judgment of the Bombay High Court in the matter of **Tata Sons Limited & others (Applicants); in the matter between Pramod Premchand Shah & others Vs. Ratan N. Tata & others** decided on 10<sup>th</sup> July, 2017 in Chamber Summons (L) No. 809 of 2017 in Suit No. 192 of 2017 in support of his case.

(3) Per contra, counsel for proposed respondent – Diwakar Mirdha, whose application has been allowed, submits that impugned order passed by the trial Court is strictly in accordance with law, which does not call for any interference under Article 227 of the Constitution of India.

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

(5) It is not in dispute that the suit as framed and filed has been declared as representative suit by the Court under Order 1 Rule 8 of the

CPC on 13.05.2010 and it has been notified in the daily news paper on 08.04.2011. In the said suit, after the notification in the daily newspaper, proposed respondent – Diwakar Mirdha filed an application under Order 1 Rule 10 of the CPC stating that since 26.05.1998, he is in possession of the land bearing Khasra No.217/903, area 0.178 hectare and he came in possession of the suit land by virtue of the agreement to sell executed by one Thedhu, son of Konda, who was original owner of the suit property, on 26.05.1998 and by virtue of the said document, he has a right to protect his possession and plaintiff is claiming ownership over the said land and, therefore, if he is not impleaded as party defendant in the suit, his right would be affected by the ultimate decision of the suit and, as such, he is necessary party to the suit and has rightly been impleaded as party defendant by the trial Court by the impugned order.

(6) Since the plaintiff is claiming title as well as possession over the suit land and respondent No.1 – Diwaker Mirdha is claiming his right over the land bearing Khasra No. 217/903, which is a part of the suit land, therefore, impleadment of proposed defendant -Diwakar Mirdha is not only necessary but also proper. Therefore, the trial Court is absolutely justified in admitting the said applicant – Diwakar Mirdha as party defendant in the suit. I do not find any illegality in the order impugned warranting interference by this Court under Article 227 of the Constitution of India.

(7) Accordingly, the writ petition being devoid of merit is liable to be and is hereby dismissed. No order as to cost (s).

Sd/-

(Sanjay K. Agrawal)  
Judge

