

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.639 of 2014**

1. K. Subba Rao, S/o K.Rama Rao Aged About 38 Years R/o Gayatri Nagar, Jagdalpur, Post, PS & Tahsil Jagdalpur, Civil & Revenue District Bastar at Jagdalpur (CG).

2. K. Santosh Rao, S/o Shri K. Rama Rao, aged about 34 years, R/o Gayatri Nagar, Jagdalpur, Post, PS & Tahsil Jagdalpur, Civil & Revenue District Bastar at Jagdalpur (CG).

---- Petitioners**Versus**

1. Smt. Seema Ahuja W/o Shri Raj Kumar Ahuja, aged about 40 years, R/o Kumharpara (Maitri Sangh Gali), Jagdalpur, Post, P.S. & Tahsil Jagdalpur, Civil & Revenue District Bastar (CG).

2. Smt. Shashi Shrivastava W/o Lt Vijay Kumar Shrivastava, Aged About 48 Years Mother Teresa Ward Jagdalpur, Post, PS & Tahsil Jagdalpur, Civil & Revenue District Bastar at Jagdalpur (CG).

3. Shri Gunupura Shrinivas Rao S/o Gunupura Rami R/o Lalbagh Jagdalpur, Post, PS & Tahsil Jagdalpur, Civil & Revenue Distt Bastat at Jagdalpur (CG).

4.State of Chhattisgarh, through Collector, Bastar, District Bastar at Jagdalpur (CG).

--- Respondents

For Petitioner : Mr. Akash Pandey, Advocate
For Respondent No.1: Mr. R.N. Pusty, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

20/09/2017

(1) The plaintiff/respondent No.1 herein filed a civil suit for specific performance of contract against respondent No.2 herein before the trial Court on 14.03.2007. Thereafter, plaintiff/respondent No.1 moved an application on 11.10.2013 for impleadment of the petitioners/subsequent purchaser as defendants in the suit. The said application was allowed by

the trial Court and the petitioners were directed to be impleaded as defendants. During the pendency of the suit, the petitioners have filed an application that their impleadment in the suit is barred by limitation. The said application has been rejected by the trial Court by its impugned order dated 23.06.2014, against which this petition under Article 227 of the Constitution of India has been filed by the petitioners.

(2) Learned counsel appearing for the petitioners would submit that the trial Court has committed jurisdictional error in rejecting the said application.

(3) Per contra, learned counsel appearing for the plaintiff/respondent No.1 would support the impugned order and oppose the submissions made by learned counsel for the petitioners.

(4) I have heard learned counsel appearing for the parties and perused the impugned order with utmost circumspection.

(5) The said application has been rejected by the trial Court on the ground that neither review application has been filed nor the order has been challenged by the petitioners before the higher forum and the petitioners also did not appear when the application was considered and decided.

(6) The question of limitation is a mixed question of law and fact and it has to be considered and decided after recording of the evidence. The petitioners are at liberty to argue/lead evidence in support of their plea during the course of the trial and that will be considered by the trial Court, strictly in accordance with law. I do not find any jurisdictional error

in the impugned order.

(7) Consequently, the writ petition filed under Article 227 of the Constitution of India deserves to be and is accordingly dismissed. No order as to costs.

(8) A copy of this order be sent to the trial Court for information and needful action.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-