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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 77 of 2016**

Smt. Archana Jha wife of Sanjay Kumar Jha, aged about 44 years, resident of Block 55-A, Ruabandha Sector, Bhilai, Tahsil and District Durg (Chhattisgarh).

---Petitioner
Plaintiff

Versus

1. Deepak Kumar Jha son of late Sunil Kumar Jha, aged about 40 years, resident of Turi Hatri Purana Basti, Salaxminarayan Ward, Raipur (Chhattisgarh), Official Address – Assistant Grade-2, Clerk, Office of District Education Officer, Pension Bada, Raipur, through the District Education Officer, Raipur (Chhattisgarh). ----Defendant No.1
 2. Naib Tahsildar, Up-Tahsil Office, Bhilai-3, District Durg (Chhattisgarh). ----Defendant No.2
 3. State of Chhattisgarh, through the Collector, Durg (Chhattisgarh) ----Defendant No.3
 4. D.M.C.C. Welfare Trust, Office – Through the Dharamsi Morarji Chemical Company Limited, Prospect Chamber-317-21, Dr. Dadabhai Nauroji Road Fort Mumbai, through power of attorney-Vishanlal Ojha son of Chironjilal Ojha, resident of Sadar Bazar, Raipur (Chhattisgarh). ----Applicant
- Respondents**

For petitioner : Mr. Jitendra Gupta, Advocate.

For respondent No.1 : Mr. M.L. Sen, Advocate, on behalf of
Mr. S.C. Verma, Advocate.

For respondents No.2 and 3/State : -
Mr. Arun Sao, Dy. Advocate General.

For respondent No.4 : Mr. Parag Kotecha, Advocate.

And**Writ Petition (227) No. 279 of 2016**

Deepak Kumar Jha, S/o. Late Sunil Kumar Jha, aged about 40 years, R/o. Turi Hatri, Purani Basti Laxminarayan Ward

(Chhattisgarh) Office Address :- Assistant Grade-II, Clerk, Office of District Education Officer, Penshanbada, Raipur (Chhattisgarh), through :- District Education Officer, Raipur (Chhattisgarh), Civil and Revenue District -Raipur (Chhattisgarh).

---Petitioner

Defendant No.1

Versus

1. Smt. Archana Jha, W/o. Sanjay kumar Jha, aged about 40 years, R/o. Block – 93-B, Ruabandha Sector, Bhilai, District Durg (Chhattisgarh).
-----Plaintiff

2. Naib Tahsildar, Up-Tahsil Office, Bhilai-3, District Durg (Chhattisgarh).
-----Defendant No.2

3. State of Chhattisgarh, through the Collector, Durg (Chhattisgarh)
-----Defendant No.3

4. D.M.C.C. Welfare Trust, Office – Through the Dharamsi Morarji Chemical Company Limited, Prospect Chamber-317-21, Dr. Dadabhai Nauroji Road Fort Mumbai, through power of attorney holder-Vishanlal Ojha son of Chironjilal Ojha, R/o. Sadar Bazar, P.S. City Kotwali, Raipur (C.G) -----Applicant

---Respondents

For petitioner : Mr. A. K. Prasad, Advocate.

For respondents No.2 and 3/State : -
Mr. Arun Sao, Dy. Advocate General.

For respondent No.4 : Mr. Parag Kotecha, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

11.12.2017

1. Since common question of law and fact is involved in both the writ petitions, they are being disposed of by this common order.

2. Both the writ petitioners are challenging the order dated 05.01.2016 granting application under Order 1 Rule 10 of the Code

of Civil Procedure, 1908 impleading respondent No.4 (D.M.C.C. Welfare Trust) as a party defendant in the suit.

3. Mr. A. K. Prasad and Mr. Jitendra Gupta, learned counsel for the respective petitioners, would submit that proposed defendant/respondent No.4 is neither necessary party nor proper property in the suit, as the plaintiff evidence has already been completed and application under Order 1 Rule 10 CPC has already been rejected by the trial court on 26.09.2012.

4. Mr. Parag Kotecha, learned counsel for respondent No.4, would support the impugned order.

5. I have heard learned counsel for the parties and considered their rival submissions made herein-above.

6. The trial court has clearly reached to a finding that proposed defendant/respondent No.4 has purchased the suit land on 18.02.1983 by registered sale deed and further recorded a finding that the plaintiff has also stated that conditional sale deed was executed in favour of proposed defendant/respondent No.4 by plaintiff's grandfather, but on non-compliance of certain conditions, the subject land has already been reverted to the plaintiff's grandfather is a matter of evidence to be considered during the course of trial. The reason assigned by the trial court for holding the proposed defendant/respondent No.4 as a party defendant in the suit is valid and the discretion has been properly and validly exercised by the trial court and the plaintiff herself has admitted

transfer of suit land in favour of proposed defendant No.4 stating it to be conditional. Therefore, the proposed defendant is not only proper party but also necessary party in the suit. I do not find any jurisdictional error in the impugned order.

7. The writ petitions deserve to be and are accordingly dismissed. The proposed defendant is directed to file written statement within three weeks from today and the trial Court is directed to conclude the hearing of suit within four months from the date of receipt of a copy of this order. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge