

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (227) No.395 of 2016**

- 1.** Durjay Pratap Singh S/o Late Mahamaya Pratap Singh, Aged About 30 Years
- 2.** Malkhan Singh, S/o Late Mahamaya Pratap Singh, Aged About 28 Years
- 3.** Sulekh Pratap Singh, S/o Late Mahamaya Pratap Singh, Aged About 26 Years

All above R/o Village Malda, Post Malbhatha, Police Station Jaisingh Nagar, Tahsil Shohagpur, Civil And Revenue District Shahdol (MP)

The Petitioner No.1 to 3 through their Power Of Attorney Holder Ashwini Kumar Singh, S/o Late Shri Ram Sahai Singh, Aged About 54 Years, R/o Mahamaya Road, Ambikapur, Police Station & Post Ambikapur, Civil And Revenue District Surguja, (Chhattisgarh)

- 4.** Smt. Triveni Singh, Wd/o Late Samar Pratap Singh, Aged About 62 Years
- 5.** Om Narayan Singh, S/o Late Samar Pratap Singh, Aged About 40 Years
- 6.** Pushpa Raj Singh, S/o Late Samar Pratap Singh, Aged About 38 Years
- 7.** Smt. Roopa Singh, Wd/o Late Krishna Pratap Singh, Aged About 31 Years

The petitioner No.4 to 7 are R/o Village & Post Khad, Police Station & Tahsil Gohparu, Civil And Revenue District Shahdol (MP)

Petitioner No.4 to 7 through their Power Of Attorney Hoder Namely Ram Ashish Singh, S/o Late Subedar Singh, Aged About 55 Years, R/o Mahamaya Road, Ambikapur, Police Station & Post Ambikapur, Civil And Revenue District Surguja (Chhattisgarh)

---- Petitioners

Versus

- 1.** Neeraj S/o Ramdulare Kori, Aged About 42 Years
- 2.** Narendra Kumar, S/o Ramdulare Kori, Aged About 40 Years
- 3.** Sunita, D/o Ramdulare Kori, Aged About 38 Years
- 4.** Anita, D/o Ramdulare Kori, Aged About 35 Years
- 5.** Sarika, D/o Ramdulare Kori, Aged About 32 Years
- 6.** Sarita, D/o Ramdulare Kori, Aged About 30 Years
- 7.** Sharda Devi, D/o Ramratan, Aged About 40 Years
- 8.** Shanti Devi, W/o Harishankar Pant, Aged About 50 Years

All above are R/o Nagar Sattipara, Ambikapur, Police Station & Post Ambikapur, Civil & Revenue District Surguja, (Chhattisgarh)

- 9.** State Of Chhattisgarh, Through: Collector, Surguja, District Suyrguja, Ambikapur (CG)

---- Respondents

For Petitioners	:	Mr.Manoj Paranjape, Advocate
For Res.No.1 to 6	:	Mr.Sunil Tripathi, Advocate
For State	:	Mr.Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

27/04/2017

1. By the impugned order, the petitioners/plaintiffs application under Order 1 Rule 10 of the CPC has been rejected by the trial Court.
2. In a suit filed by the petitioners/plaintiffs for declaration of title and permanent injunction and declaration of sale deed dated 26.12.1983 as null and void way back in September, 2005, the trial Court proceeded with the suit and the plaintiffs evidence have been closed with great difficulty in the year 2016. Now the plaintiffs have filed an application under Order 1 Rule 10 of the CPC that defendants No.1 to 6 have already sold the suit property to proposed defendants and they should be impleaded as party defendants in the suit.
3. Leaned counsel appearing for the petitioner would rely upon the judgments of the Supreme Court in the matters of **Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay and others**¹, **A. Nawab John Vs. V.N. Subramaniam**² and **Poonam Vs. State of Uttar Pradesh and others**³.
4. Mr.Sunil Tripathi, learned counsel appearing for respondents No. 1 to 6 would submit that sale has been made prior to filing of the suit in the year 1984 and 1986 and those purchasers have further transferred the suit property to some other persons. He would further submit that the trial Court has rejected the application holding that only to delay the proceeding, such an application has been filed as the suit is pending since September, 2005.

1 (1972) 2 SCC 524

2 (2012) 7 SCC 738

3 (2016) 2 SCC 779

5. I have heard learned counsel for the parties and perused the order impugned.
6. The suit was filed way back in September, 2005 and the alleged sale has been made prior to filing of the suit in the year 1984 and 1986. The petitioners did not take any steps to find out the aforesaid sale and to implead the necessary party in the suit and after lapse of 11 years application for impleadment has been filed.
7. The suit was for declaration of title and permanent injunction and declaration of sale deed dated 26.12.1983 as null and void. It is not the case that sale was made during pendency of the suit, but sale has been made much prior to filing of the suit before the trial Court and there is no explanation as to why for last 11 years application for impleadment could not be filed.
8. Valid and sufficient reasons have been assigned by the trial Court in rejecting the application under Order 1 Rule 10 of the CPC in which I do not find any jurisdictional error.
9. Consequently, the writ petition is liable to be and is hereby dismissed. No order as to cost(s). However, the trial Court is directed to conclude the trial as early as possible preferably within a period of six months from the date of production of copy of this order.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-