

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 254 of 2015**

Danish Abrar S/o Late Dr. Manjoor Hussain Aged About 37 Years R/o Near Old Bus Stand Chowk, New Vegetable Market, Dongargarh, Civil And Revenue Distt. Rajnandgaon (C.G.)

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

1. Smt. Nishat Zarin W/o Shri M.Z. Arif Aged About 50 Years R/o Tulsipur, Ward No. 17, Rajnandgaon, Civil And Revenue Distt. Rajnandgaon (Chhattisgarh)
2. Smt. Shad Tarannum W/o Ahmadullah Aged About 39 Years R/o Near Old Bus Stand Chowk, New Vegetable Market, Dongargarh, Civil And Revenue Distt. Rajnandgaon (Chhattisgarh)
3. Smt. Jubeda Begum W/o Late Dr. Manjoor Hussain Aged About 60 Years R/o Near Old Bus Stand Chowk, New Vegetable Market, Dongargarh, Civil And Revenue Distt. Rajnandgaon (Chhattisgarh)
4. State Of Chhattisgarh, Through The Collector, Rajnandgaon.

---- **Respondents**

For Petitioner : Shri Ravindra Agrawal, Advocate.
 For Respondent No. 1 : Shri Anup Majumdar, Advocate.
 For Respondent No. 4 : Shri Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****10/04/2017**

(1) The plaintiff/respondents No.1 has filed a Civil Suit for declaration of title, partition and separate possession along with application under Section 35 of the Court Fees Act for exemption for payment of court fee.

(2) The trial Court, by its order dated 13.12.2012, allowed the plaintiff's application filed under Section 35 of the Court Fees Act and exempted her from payment of court fee. The petitioner/defendant No.1 has preferred Writ Petition (227) No. 314/2014 before this Court there-against. This Court by order dated 06.05.2013 allowed the abovesaid application and the matter

was remitted back to the trial Court after setting aside the order dated 13.12.2012 and directed the trial Court to decide the application under Section 35 of the Court Fee Act afresh.

(3) In the meanwhile, the respondent No.1/plaintiff has not pressed application filed under Section 35 of the Court Fees Act and sought permission to sue as indigent person.

(4) The trial Court, by its impugned order dated 08.01.2015, directed the respondent No.1/plaintiff to file the proper application under Order 33 Rule 3 of the C.P.C., against which, instant writ petition has been filed stating that the trial Court, without complying the order dated 6.5.2013 passed by this Court, directed the plaintiff/respondent No. 1 to file application under Order 33 Rule 3 of the C.P.C.

(5) After hearing learned counsel appearing for the parties, this Court is of the opinion that the trial Court has simply directed the respondent No.1/plaintiff for file application under Order 33 Rule 3 of the CPC, in which I do not find any illegality warranting interference by this Court in the instant writ petition filed under Article.

(6) Accordingly, the writ petition fails and is hereby dismissed. However, the trial Court is directed to decide the application under Order 33 Rule 3 of the CPC filed by respondent No.1/plaintiff expeditiously preferably within a period of 45 days from the date of production of copy of this order.

(7) In view of above, Interim protection granted by this Court on 07.04.2015 stands vacated.

Sd/-

(Sanjay K. Agrawal)
Judge