HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 06 of 2018

Manoj Modi, S/o. Chaturbhuj Modi, Aged About 50 Years, R/o. Bhoghapara, Sivrinarayan, Tah. Navagarh, District Janjgir-Champa (C.G.)

.....(Defendant No. 3)

---- Petitioner

Versus

1. Devprasad Kesharwani, S/o. Bhagprasad Kesharwani, Aged About 70 Years, Through Special Power Of Attorney Holder Vishnu Kesharwani, S/o. Devprasad Kesharwani, Aged About 38 Years, R/o. Mahantpara, Sivrinarayan, Tah. Navagarh, District Janjgir – Champa (C.G.)

.....(Plaintiff)

2. Mamta Devi, W/o. Manoj Modi, Aged About 45 Years, R/o. Bhoghapara, Sivrinarayan, Tah. Navagarh. Distt - Janjgir – Champa (C.G.)
3. Atul Modi, S/o. Manoj Modi, Aged About 25 Years, R/o. Bhoghapara, Sivrinarayan, Tah. Navagarh. Distt - Janjgir – Champa (C.G.).
4. State Of Chhattisgarh, Through Collector, Janjgir, District Janjgir – Champa (C.G.)

….....(Defendant No. 1, 2 & 4)

---- Respondents

For Petitioner : Mr. Ravindra Sharma, Advocate

For State/Resp.No.4 : Mr. Bhaskar Payashi, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

05.01.2018

Heard

1. The instant petition is against the order dated 29.11.2017 wherein an application under Order 1 Rule 10(2) of C.P.C. read with Section 151 of C.P.C. whereby the defendant prayed for deletion of his name has been dismissed.

2. Learned counsel for the petitioner submits that no averments have been made in the plaint and only the petitioner has been arrayed as defendant without claiming any relief against the petitioner, therefore, his name may be deleted from the suit.

3. Perusal of the suit would show that joint prayer has been made against the defendant who is the petitioner herein. At this stage, at the threshold, it cannot be decided that no relief can be granted against the petitioner. It is for the plaintiff to prove his case before the Court below. Only on the mere submission of the defendant to delete his name cannot be entertained as necessarily the issue may require the evidence. If at all the defendant has wrongly been joined then the other course are open to the Court below which can be arrived at the end of the trial not at the threshold.

4. In view of the above, the petition has no merit and accordingly is dismissed at the admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge

Ashok