

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 8 of 2013**

Manglu Ram (Died) S/o Dileram Sahu, through legal heirs :

- 1.(a) - Achchhe Bai W/o Late Manglu Ram Aged About 55 Years
- 1.(b) - Brihaspati Sahu D/o Late Manglu Ram Sahu Aged About 25 Years
- 1.(c) - Kishan Kumar Sahu S/o Late Manglu Ram Sahu Aged About 23 Years
- 1.(d) - Geeta Kumari D/o Late Manglu Ram Sahu Aged About 21 Years
- 1.(e) - Smt. Sushil Sahu W/o Harprasad Aged About 32 Years
D/o Late Manglu Ram,
- 1.(f) - Siya Bai Sahu D/o Late Manglu Ram Sahu Aged About 28 Years

All R/o Village Kasdol, Police Station And Tahsil Kasdol, District
Baloda Bazaar-Bhatapara, Chhattisgarh

---- Applicants

Versus

1. Laxmikant Mishra S/o Rajdhar Aged About 40 Years Paras
Nagar, Kasdol, P.H.No. 09, Tah. Kasdol, Distt. Raipur,
Chhattisgarh, Chhattisgarh
2. State Of Chhattisgarh Through- Collector, Raipur, District-
Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents.

For Applicant : Shri K.K. Dewangan, Advocate
 For Res. No.1: Shri Sanjay Kumar Dewangan, Advocate
 For State : Shri R.K. Gupta, Deputy Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Sharad Kumar Gupta, Judge

Order On BoardPer Thottathil B. Radhakrishnan, Chief Justice28/02/2018

1. This is an application filed by the first defendant in a suit for specific performance of a contract for sale. He sought to sue an indigent and challenge the decree granted by the trial Court to the first respondent-plaintiff. Initially, the application was not entertained on the ground that it was not presented by the petitioner himself. Thereafter when such application was placed on record, the applicant died. His legal heirs have been brought on record.
2. Hearing the learned counsel for the additional appellants and the learned counsel for the first respondent and the learned Deputy Advocate General, we are of the view that the question whether the original appellant had the means to pay Court fee has to be determined with reference to the date of institution of the MCC and with reference to his means. It is on record that he holds a BPL Ration Card and is also certified to be a physically handicapped person requiring the support of clutches to move around. He is also aged fair enough. We are inclined to take the view that he does not means to pay Court fee of Rs. 91,800/-. Accordingly, we allow this MCC. Office is directed to register the First Appeal.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge