

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 436 of 2017

Harishchandra Patel, S/o. Late Shri Mantram Patel, Aged About 42 Years,
Occupation Advocate, R/o. Village Dhaurabhata, At Present R/o. Baloda
Bazar, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Petitioner

Versus

1. Ghanshyam, S/o. Shri Bharat Lal Sahu, Aged About 44 Years, Caste Teli,
R/o. Baloda Bazar, Tahsil Baloda Bazar, District Baloda Bazar Bhatapara
Chhattisgarh.
2. Santosh Patel, S/o. Uderam Patel, Aged About 35 Years, Caste Marar,
R/o. Purani Basti, Baloda Bazar, District Baloda Bazar- Bhatapara
Chhattisgarh.
3. Smt. Lagin Bai, W/o. Santosh Patel, Aged About 28 Years, Caste Marar,
R/o. Purani Basti, Baloda Bazar, District Baloda Bazar- Bhatapara
Chhattisgarh.

---- Respondents

For Petitioner : Mr. R.S.Baghel, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

25.01.2018

Heard

1. This petition is against the order dated 21.06.2017 whereby an
application under Order 1 Rule 10 of C.P.C. filed by the petitioner
to array him as defendant has been dismissed.
2. Perusal of the order would show that the suit was filed by
Ghanshyam, Respondent No.1, against Santosh Patel & Smt.
Lagin Bai and in such suit the declaration and possession has
been claimed.
3. Learned counsel for the petitioner would submit that by virtue of
an agreement dated 21.04.2016, the petitioner have been placed
in possession of the suit land and property in question, therefore, if

the decree for possession is granted then it will seriously affect the right of the petitioner. Consequently, he is a necessary party, therefore, he may be allowed to be joined as defendant in the suit.

4. The plaintiff is dominus litis, therefore, against it's will parties cannot be joined otherwise. Perusal of the agreement would show that the petitioner Harishchandra have been placed in possession of the suit property, therefore, despite the fact was brought to the notice by way of an application under Order 1 Rule 10 of C.P.C., if the petitioner has not been made a party as defendant then in judgment or decree, which may be eventually passed on a suit filed by Ghanshyam would not affect the petitioner Harishchandra. Consequently, if he is not a party to the suit, the decree in any form would not bind the petitioner and consequently even decree for possession will not have any effect on the petitioner.
5. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge