

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 285 of 2018**

1. Smt. Jamuna Devi W/o Late Vimalchandra Jatwar Aged About 48 Years
2. Jyotsna Jatwar D/o Vimalchandra Jatwar Aged About 42 Years
3. Avinash Kumar Jatwar S/o Vimalchandra Jatwar Aged About 48 Years
4. Ashutosh Kumar Jatwar S/o Vimalchandra Jatwar Aged About 48 Years

All R/o Village Khamhariya Tahsil & District Mungeli, Chhattisgarh

---- Petitioners

Versus

1. General Public
2. The Branch Manager, State Bank Of India Branch Pathariya District Mungeli, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Dharendra Pandey, Advocate
For Respondent No.2	:	Shri Sudeep Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

14/12/2018

1. Heard.
2. The present petition has been filed against the order dated 05.12.2017, whereby two applications filed by the petitioners; one is under Order 6 Rule 17 CPC and another application under Order 7 Rule 14 (3) CPC whereby certain documents were sought to be produced, have been summarily dismissed.
3. Learned counsel for the petitioners submits that initially one Vimalchandra Jatwar was holding an account with the respondent No.2 State Bank of India

and he died intestate, thereafter, on his death, the legal representatives filed an application for succession certificate to claim the amount. During the pendency it was revealed that certain wrong submission has been made about the name of the Branch as Khamariya was wrongly written which was to be substituted by word 'Branch Pathariya'. Further the certain documents were filed under Order 7 Rule 14 (3) CPC, which they could not file earlier, therefore, they may be taken on record to decide the succession proceeding, however, by cryptic order, the same has been dismissed.

4. Perusal of the order dated 05.12.2017 would show that the trial Court summarily dismissed the petition without appreciating the fact that proceedings under Section 372 of the Indian Succession Act are not adversary proceeding in nature and irrespective of the fact that what would be the effect of the amendment and the documents which are sought to be produced what would be the effect on merit. As it is pointed out as a typographical mistake and also certain documents which could not be filed later, by allowing such applications no prejudice would be caused to the opposite party and dismissing the same would lead to the multiplicity of the proceedings and the litigation would continue for further time. In view of this the order dated 05.12.2017 is set aside and the applications filed under Order 7 Rule 14 CPC and under Order 6 Rule 17 CPC are allowed, irrespective of the effect on the merits of the case, which the trial Court shall be obliged to decide at the time of hearing.

5. With such observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu