

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 692 of 2018**

1. Premlal Yadav S/o Ganesh Prasad Yadav, aged about 63 years, R/o Babulban Gorwa Maidan Nagpur, District Nagpur (M.S.).....(Non-applicant No. 2) **---- Petitioner**

Versus

1. Urmila Bai Sahu Wd/o Late Firatram Sahu, aged about 51 years, R/o Village Mudpar, Police Station Sarsiwa, District Baloda Bazar, Bhatapara (C.G.).....(Applicant)
2. Ghanshyam Sahu, S/o Late Firatram Sahu, aged about 36 years, R/o Village Mudpar, Police Station Sarsiwa, District Baloda Bazar, Bhatapara (C.G.).....(Applicant)
3. The Oriental Insurance Company Limited, Nagpur, District Nagpur (M.S.).....(Non-applicant No. 3)
4. Vijay Marathe S/o Rammau Marathe, aged about 44 years, R/o Somalwada (Nagpur) O.P. Shivangaon, P.O. Thathe Sonegaon, District Nagpur (M.S.).....(Non-applicant No.1)
5. Jani Ram S/o Motiram Sahu, aged about 80 years, R/o Village Mudpar, Police Station Sarsiwa, District Baloda Bazar – Bhatapara (C.G.).....(Non-applicant No. 4)
6. Brijmati W/o Janiram, aged about 75 years, R/o Village Mudpar, Police Station Sarsiwa, District Baloda Bazar – Bhatapara (C.G.) **---- Respondents**

For Petitioner	:	Shri T. K. Jha, Advocate.
For Respondent No. 3	:	Shri Raj Awasthi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****21/08/18**

1. This writ petition is directed against the order dated 09.07.2018 (Annexure – P/1) whereby the application filed by the petitioner under Order 21 Rule 26 of C.P.C. has been rejected by the Claims Tribunal.

2. I have heard learned counsel for the petitioner and respondent No. 3.

3. It appears from the record that in the claim petition filed by Urmila Bai, (applicant / respondent No. 1 herein) and others, the learned Claims Tribunal allowed the claim petition on 04.02.2005 ex-parte and awarded an amount of Rs. 1,97,500/- to the applicants. The said amount has been deposited by the Insurance Company but it is a case of Insurance Company that the amount has to be paid by the owner (petitioner herein) and driver (respondent No. 4 herein) and it has to be recovered from the owner and driver for which the Insurance Company has filed execution case for recovery of the said amount from the owner and driver of the offending vehicle in which the impugned order for direction to take coercive steps for recovery of amount has been passed. Since, the application filed by the petitioner under Order 9 Rule 13 of C.P.C. for setting aside the ex-parte order is pending consideration before Claims Tribunal since 04.05.2018, therefore, it would be expedient to stay the execution proceedings till the application under Order 9 Rule 13 is finally decided. The Claims Tribunal is directed to decide the application under Order 9 Rule 13 within a period of two months and for the period of two months the recovery proceedings shall remain stayed.

4. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

SD/-
(Sanjay K. Agrawal)
Judge