

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 52 of 2019**

1. Shashi Kumar Nanu, son of Shri Thalkdada Nanu, aged about 49 years, R/o. Hospital Sector, Sector-09, Bhilai, District Durg (C.G.)
2. Riyaz Khan, aged about 53 years, son of late Shiledar Khan, R/o. Kasaridih, Near Mushi Raza Fatakha Dukan, Durg, Tahsil and District Durg (C.G.)
3. Nazamuddin, aged about 52 years, son of late Virajuddin, R/o. Subhash Nagar, Near Sinha Kirana Dukan, Durg, Tahsil and District Durg (C.G.)
4. Narendra Pandey, aged about 26 years, son of late Dhanraj Pandey, R/o. Kailash Nagar, Titurdih, Near Rajju Kirana Store, P.S. Mohan Nagar, Durg, Tahsil & District Durg (C.G.)

----Petitioners/Objector**Versus**

1. Nyas Shri Laxminarayan Mahraj Killa Mandire Durg, Through Trustee Tarun Kumar Agrawal, Tahsil and District Durg (C.G.)
2. B.N. Rajesh, son of late R. Vishwanathan, aged about 40 years.
3. B.N. Prakash, son of late R. Vishwanathan, aged about 48 years,
4. Kumari B.N. Kala, D/o. Late R. Vishwanathan, aged about 35 years,
No. 3 to 5 are R/o. Vishwa Auto Mobiles, G.E. Road, Durg, Tahsil and District Durg (C.G.)
5. Khudar Vilmoriya, son of Adal K. Vilmo, aged about 37 years,
6. Tusha Vilmoriya, son of Adal K. Vilmo, aged about 34 years,
No. 7 & 8 are R/o. 35, 36 Jawahar Nagar, Durg, Tahsil and District Durg (C.G.)
7. Smt. Narendra Kaour, widow of late Mohan Singh,
8. Jawahar Singh, son of late Mohan Singh,
9. Lil Singh, son of late Sardar Mohan Singh,
No. 9 to 11 are R/o. Muktanagar, Durg, Tahsil and District Durg (C.G.)
10. General Public.

---- Respondents/Decree holder.

For Petitioners	: Shri Akhilesh Kumar, Advocate.
For Respondents	: None

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

22/01/2019

Heard on admission.

1. By the impugned order dated 15.01.2019, petitioner's application under Order 21, Rule 38 read with Sections 47 & 151 of the Code of Civil Procedure has been rejected by the Executing Court, against which instant writ petition has been preferred.
2. Learned counsel appearing for the petitioners would submit that petitioners have already filed substantive civil suit against their eviction as they are being evicted from the suit premises and warrant of possession has already been issued against them on the basis of judgment and decree dated 28.06.2005 {Nyas Laxminarayan Maharaj Vs. Smt. N. Basnada} .
3. I have heard learned counsel appearing for the petitioners.
4. The trial Court, by its impugned order, has clearly recorded a finding that the petitioners have no title in the suit premises and therefore they are not entitled for protection. Since the substantive civil suit was filed by the petitioners for declaration of title and permanent injunction and which is pending consideration before the civil court, I do not consider it fit case to entertain the writ petition.
5. Accordingly, the writ petition is liable to be and is hereby dismissed. However, the petitioners are at liberty to pursue the civil suit and application for temporary injunction, if any, before that court and that will be considered & decided by the trial Court without being prejudiced by this order and the impugned order.

Certified copy, as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

