

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP227 No. 480 of 2018**

Rahul Shukla, S/o Late Ramesh Shukla, Aged about 33 years, R/o 27 Kholi, Vikas Nagar, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

---Petitioner (Applicant)

Versus

1. Rahul Tiwari S/o Krishnamani Tiwari, Aged about 32 years.
2. Smt. Ramaa Tiwari W/o Krishnamani Tiwari, Aged about 32 years.

--- Plaintiffs

3. Rohit Shukla, S/o Late Ramesh Shukla, Aged about 28 years, R/o 27 Kholi, Vikas Nagar, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.
4. State of Chhattisgarh, Through Collector, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

--- Defendants

---- Respondents

For Petitioner	:	Mr. Vikram Dixit, Advocate
For State	:	Mr. Akash Pandey, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

20/09/2019

1. This writ petition under Article 227 of the Constitution of India has been filed by the petitioner herein questioning the legality, validity and correctness of the order dated 20/03/2018 by which application filed by him under Order 1 Rule 10 of the CPC has been rejected by learned 9th Additional Session Judge, Bilaspur in Civil Suit No. 41-A/2017.

2. Mr. Vikram Dixit, learned counsel for the petitioner would submit that impleadment of the present petitioner in the civil suit filed by respondents No. 1 and 2 is absolutely necessary. Though the petitioner herein has filed a separate suit, but in the suit filed by respondents No. 1 and 2, his impleadment is imperative, therefore, impugned order be set aside and it be directed that the present petitioner be impleaded as a party in the civil suit filed by respondents No. 1 and 2 herein.
3. I have heard learned counsel for the petitioner at length.
4. It is the admitted position on record that firstly, petitioner filed a suit for declaration of agreement of sale dated 15/12/2016 as null and void which is registered as Civil Suit No. 40A/2017 and pending consideration before the Court of 9th Additional District Judge, Bilaspur against respondents No. 1 to 3 herein. Thereafter, respondents No. 1 and 2 herein filed a suit for specific performance of contract on 18/05/2017 which is registered as Civil Suit No. 41A/2017, in which the present petitioner moved an application under Order 1 Rule 10 of the CPC for his impleadment as a party/defendant, which has been rejected by the impugned order. Admittedly, the petitioner has already filed a civil suit for cancellation/declaration of agreement dated 15/12/2016 as null and void, so his impleadment in the subsequent suit filed by respondents No. 1 and 2 seeking specific performance of the contract cannot be held as necessary and proper.
5. The remedy, if any, available to the petitioner is to get the suit consolidated by invoking provisions contained under Section 151 of the CPC, however, he is neither necessary nor proper party in the

civil suit filed by respondents No. 1 and 2 seeking specific performance of the agreement dated 15/12/2016. As such, I do not find any perversity or illegality in the impugned order warranting interference under Article 227 of the Constitution of India.

6. The writ petition deserves to be and is accordingly dismissed. No order as to cost(s).
7. A copy of the order be sent to the concerned Courts below by e-mail/fax for information and necessary action.

**Sd/-
(Sanjay K. Agrawal)
Judge**

Harneet