

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP227 No. 627 of 2019**

1. Smt. Sumitra Devi, Aged 74 years, Widow of Motilal.
2. Shivkumar Saraf, Aged 57 years, S/o Motilal.
3. Deepak Kumar Saraf, Aged 54 years, S/o Motilal.

All residents of Mahima Niwas, Behind Motilal Service Station, Link Road, Bilaspur, District Bilaspur, Chhattisgarh.

4. Rashmi Singh W/o Shri Dharmendra Singh, Aged 51 years, 25 Bangla, Maharana Pratap Chowk, Bilaspur, Tahsil and district Bilaspur, Chhattisgarh.

--- Petitioners/Non-applicants

Versus

1. Smt. Vidyawati Saraf, Aged 82 years, W/o Lakhan Lal Saraf.
2. Radheshyam Saraf, Aged 63 years.
3. Smt. Shivani Saraf, Aged 57 years.
4. Smt. Ramani Saraf, Aged 45 years.
5. Smt. Meenakshi Saraf, Aged 42 years.
6. Purushottam Saraf, Aged 47 years.

No. 2 to 6 father Lakhanlal Saraf, All residents of Geetanjali Nagar, Kashyap Colony, Gali No. 5, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh, Mo. No. 9826148080.

---- Respondents/Applicants

For Petitioners	:	Mr. Sudhir Agrawal, Advocate
For Respondents	:	Mr. Aishwarya Pandey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

05/09/2019

1. The only grievance raised by the petitioners in this writ petition is that their application under Section 47 of the CPC is being heard with execution case No. 14A/2019 whereas it has to be heard separately.
2. Mr. Sudhir Agrawal, learned counsel for the petitioner would submit that the application filed by the petitioner ought to have been heard separately by registering an M.J.C civil case.
3. Mr. Aishwarya Pandey, learned counsel for the respondents would submit that petitioners themselves, filed application under Section 47 of the CPC in the execution case on the date of hearing of execution case, therefore, learned executing Court is trying the application filed by them under Section 47 of the CPC along with the execution case No. 14A/2019.
4. I have heard learned counsel for the parties at length.
5. Rule 372 of the Chhattisgarh Civil Court Rules, 1961 provides for register of miscellaneous judicial cases, which reads as under :-

“372. Register of miscellaneous judicial cases.- In this register shall be entered all miscellaneous judicial cases for which no separate register is prescribed. The following list shows the cases which are to be treated as miscellaneous judicial cases and without the special orders of the High Court no addition should be made thereto.

Cases under the Code of Civil Procedure.

- | | | |
|-----------|------|------|
| (1). XXXX | XXXX | XXXX |
| (2). XXXX | XXXX | XXXX |
| (3). XXXX | XXXX | XXXX |
| (4). XXXX | XXXX | XXXX |

(5). XXXX XXXX XXXX

(6). Cases under Sections 47, 95, 144 and 145.”

6. In view of the above, application under Section 47 of the CPC has to be registered separately and to be tried accordingly by registering an MJC, as such, learned district Judge, Bilaspur is directed to register the said application filed under Section 47 of the CPC filed by the petitioners as an MJC and thereafter, try that application in accordance with law.
7. With the aforesaid observations, this writ petition stands disposed of. No cost(s).
8. A copy of this order be sent to the concerned trial Court by e-mail/fax for needful and compliance.

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

Hameet