

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (227) No.910 of 2018

1. Vinay Kumar S/o. Dwarika Prasad Rathore, aged about 22 years.
2. Chandrahas S/o. Dwarika Prasad Rathore, aged about 20 years.
3. Minor Akash S/o. Dwarika Prasad Rathore, aged about 12 years, through guardian natural father Dwarika Prasad S/o. Late Chunni Lal Rathore, aged about 50 years (Petitioner No.4)
4. Dwarika Prasad S/o. Late Chunni Lal Rathore, aged about 50 years  
Petitioner No.1 to 4 are R/o. Village Thusekela, Tahsil Kharsia, District Raigarh (CG)
5. Ashok Kumar S/o. Chini Lal Nishad, aged about 60 yers, R/o. Village Ghaghra, Tahsil Kharsia, District Raigarh (CG)

--- Petitioners

Versus

1. Tileshwar Prasad S/o. Mahavir Rathore, aged about 40 years, Occupation Agriculture
2. Gajanand S/o. Mahavir Rathore, aged about 33 years, Occupation Agriculture  
Respondent No.1 and 2 are R/o. Village Ghaghra, Police Station and Tahsil Kharsia, District Raigarh (CG)
3. Superintendent, Head Post Office, Division Raigarh, District Raigarh (CG)
4. Post Master, Post Office Kharsia, Tahsil Kharsia, District Raigarh (CG)
5. State Bank of India through Branch Manager, Branch Kharsia, Tahsil Kharsia, District Raigarh (CG)
6. Gramin Bank Through Branch Manager, Branch Kharsia, Tahsil Kharsia, District Raigarh (CG)
7. General Public

--- Respondents

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|----------------------------|---|------------------------------|
| For Petitioners            | : | Mr.Govind Dewangan, Advocate |
| For Respondents No.1 and 2 | : | Mr.Roop Naik, Advocate       |
| For Respondents No.3 and 4 | : | Mr.B. Gopa Kumar, A.S.G.     |

Hon'ble Shri Justice Sanjay K. AgrawalOrder on Board25/04/2019

1. By the impugned order, the petitioners' application under Order 1 Rule 10 of the CPC has been rejected by the trial Court.
2. Mr.Govind Dewangan, learned counsel for the petitioners, would submit that disputed deposit was made by Shanti Devi and petitioners No.1 to 3 are grandsons of Shanti Devi and petitioner

No.4 is son of Chunni Lal, as such, they are necessary and proper party in the application filed under Section 372 of the Indian Succession Act, 1925 (hereinafter called as "the Act of 1925") and the succession Court is absolutely unjustified in rejecting the application, which is liable to be set aside.

3. Mr.Roop Naik, learned counsel for respondents No.1 and 2, would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. Admittedly, disputed deposit was made by Shanti Devi in her name. Petitioners No.1 to 3 are grandsons of Shanti Devi out of her wedlock with Chunni Lal whereas petitioner No.4 is son of Shanti Devi with her first husband Chunni Lal, as such, they are necessary and proper party in the application which relates to deposits of Shanti Devi.
6. In view of above, the impugned order is set-aside. Respondents No.1 and 2 are directed to implead petitioners No.1 to 4 as party non-applicants in the application filed under Section 372 of the Act of 1925. However, it is made clear that this Court has not expressed any opinion on merits of the case.
7. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)  
Judge