

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 787 of 2019

- Vajir Ali S/o Late Jalil Ali Aged About 45 Years Caste Musalman (Vehicle Owner) r/o Ward No. 14, Faiznagar, Talapara, Bilaspur, Police Station Civil Line, Bilaspur District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Ropan Ram Paikra S/o Late Golwa Aged About 45 Years Caste Kanwar, R/o Ward No. 13, Village Palma, Police Station Jhilmili, Bhaiyathan, Tahsil Bhaiyathan, District Surajpur Chhattisgarh
2. Mohd. Faruq S/o Mohd. Ahmed Aged About 49 Years Caste Musalman, (Vehicle Driver), R/o Village Palma (Nalapara), Chowki-Chendra, Police Station Jhilmili, Bhaiyathan, Tahsil Bhaiyathan, District Surajpur Chhattisgarh

---- Respondents

For Petitioner : Mr. Goutam Khetrapal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

14-11-2019

Heard.

1. This petition has been brought being aggrieved by the order dated 12.09.2019 passed by the Second M.A.C.T. in Criminal Case No.68/2018 pending before the Court of M.A.C.T. Surajpur.
2. Learned counsel for the petitioner submits that the application under Order 1 Rule 10 of C.P.C. was filed by the petitioner for impleading necessary party, that is the real and possessory owner of the vehicle which is involved in the accident and the application has been rejected arbitrarily by the trial Court without giving proper consideration. Therefore, it is prayed that the impugned order be set aside.

3. On perusal of the impugned order, application for impleading party and other documents filed, it appears that the petitioner has tried to bring to the notice of the learned M.A.C.T. that one Rafiq Khan had been or may have been the auction purchaser of the vehicle which is involved in the accident, on the basis of which, the claim case has been filed. Therefore, the proper course to be adopted by the learned M.A.C.T. would have been to issue notice to proposed party before considering on the application filed by the petitioner and then the application should have been decided. Therefore, I feel inclined to dispose off this petition at the motion stage. The impugned order is set aside and the application under Order 1 Rule 10 of C.P.C. filed by the petitioner is restored. The learned M.A.C.T. is directed to issue notice to the proposed party and after affording him an opportunity for giving the response to the application, the application for impleading necessary party be decided in accordance with law.
4. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Monika