

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 815 of 2019

1. Tukaram Sahu, S/o. Ram Kumar, Aged About 32 Years
2. Madhav Sahu, S/o. Ram Kumar, Aged About 25 Years
3. Girija Bai, W/o. Ram Kumar, Aged About 47 Years

All Are By Caste Teli, Occupation Agriculturist, R/o. Village Brahmanpali, Tehsil Kharsia, District Raigarh Chhattisgarh.

---- Petitioners

Versus

1. Kanhaiya Charan Sahu, S/o. Bhuvneshwar Prasad, Aged About 65 Years
2. Bhogi Lal Sahu, S/o. Bhuvneshwar Prasad, Aged About 63 Years
3. Gopichand Sahu, S/o. Bhuvneshwar Prasad, Aged About 57 Years,
All Are By Caste Teli, Occupation Agriculturist, R/o. Village Brahmanpali, Tehsil Kharsia, District Raigarh Chhattisgarh.
4. State of Chhattisgarh, Through : Collector, Raigarh, District Raigarh Chhattisgarh.

-----Respondents

For Petitioners	: Mr. Jeet Patel, Advocate
For Respondent/State	: Mr. Roshan Dubey, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/11/2019

1. This petition has been brought challenging the order dated 17.06.2019, passed by the Court of First Civil Judge Class-II, Kharsiya, District Raigarh in Civil Suit No.23-A/2015, in which order has been passed under Section 151 of C.P.C. for consolidation of suits.
2. It is submitted that the petitioner had presented an application under Section 10 of C.P.C. praying that one earlier suit was filed by the petitioner against the respondents in which the parties, subject matter and the issues were same as in the present suit, on that basis orders were prayed for.

3. It is further submitted that trial Court has although held it categorically that both the suits pending fulfilled the criteria of Section 10 of C.P.C., however, without passing an order under Section 10 of C.P.C., the Court has ordered for consolidation of both the suits. Neither of the parties had prayed for consolidation, therefore, the order is erroneous and arbitrary, which is not sustainable.
4. Respondent No.4 is represented by State Counsel.
5. Section 10 of C.P.C. very clearly provides that where the parties, subject matter and issues are same in two different suits filed, in that case, the trial Court shall not proceed with the trial in subsequent civil suit.
6. As there had been no prayer made by either of the parties for consolidation of the suits, therefore, the trial Court should have proceeded to decide and pass order on application under Section 10 of C.P.C. only. Hence without notice to the respondents side, I do not find the impugned order sustainable.
7. Accordingly, the petition is allowed at motion stage. The impugned order dated 17.06.2019, passed by the Court of First Civil Judge Class-II, Kharsiya, District Raigarh (C.G.) in Civil Suit No.23-A/2015 is set-aside and the trial Court is directed to reconsider on the application under Section 10 of C.P.C. and pass order in accordance with law.

Sd/-
(Rajendra Chandra Singh Samant)
Judge