

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 867 of 2019

1. Sudhir Gupta S/o Late Shankar Lal Gupta Aged About 55 Years
2. Smt. Sandhya Gupta D/o Late Shankar Lal Gupta Aged About 51 Years
3. Jyoti Gupta D/o Late Shankar Lal Gupta Aged About 49 Years
4. Smt. Sibbo Gupta D/o Late Shankar Lal Gupta Aged About 41 Years

(all are r/o Infront Of City Club Station Road, Durg Tahsil And District -
Durg Chhattisgarh)

---- Petitioners

Versus

1. Jayesh Yadav S/o Late Radhe Raman Yadav Aged About 44 Years R/o Panchsheel Colony, Behind Collectorate Ward No. 41, Chhindwada, Tahsil And District - Chhindwada (M.P.) Pin - 480001
2. Ashish Yadav S/o Late Radhe Raman Yadav Aged About 40 Years Panchsheel Colony, Behind Collectorate, Ward No. 41, Chhindwada, Tahsil And District - Chhindwada, (M.P.) Pin - 480001
3. Preeti Jabalpure D/o Late Radhe Raman Yadav Aged About 43 Years R/o Ambaji Road, Bhau Saheb Survey Nagar, Nagpur (M.S.)

---- Respondents

For Petitioners : Mr. P.R. Patankar, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21-11-2019

Heard.

1. This petition has been brought being aggrieved by the order dated 19.09.2019 by which the application of the petitioners/plaintiffs filed under Order 1 Rule 10 read with Order 6 Rule 17 of C.P.C. was rejected.
2. Learned counsel for petitioners submits that the petitioners have filed a suit for specific performance against the Snehalata Yadav, whose legal representatives are the respondents in this case and the defendants in

the Civil Suit.

3. The suit was brought on the basis of agreement dated 26.06.2004 with respect to the suit land. Suit land was however disputed in another Civil Suit between the defendant Snehalata Yadav and Arya Pratinidhi Sabha which concluded in a compromise in Lok Adalat on 14.08.2005. Thereafter, the agreement between the parties become executable. However, the defendant Snehalata Yadav was not willing to perform the agreement because of which this suit for specific performance has been filed. In the meanwhile, the Arya Pratinidhi Sabha has challenged the compromise decree before this Court in a W.P.(227) No.649/2014. Therefore, for the reason that the said Arya Pratinidhi Sabha is an interested party and will be affected by the judgment and decree of the suit, hence, the application was filed proposing to implead the members of Arya Pratinidhi Sabha as defendant party in the Civil Suit which has been erroneously and arbitrarily rejected by the trial Court. Hence, this petition.
4. On perusal of the impugned order, it is found that the trial Court has held that the proposed defendants do not appear to be third party or interested party. However, the reason for giving this conclusion was simply that the pendency of the writ petition was not brought to the notice of the trial Court itself. The pendency of the writ petition filed by the Arya Pratinidhi Sabha against the defendants and others, is a clear indication of the interest which is claimed by the Arya Pratinidhi Sabha on the subject matter of the present Civil Suit. Therefore, I am of this opinion that the trial Court is required to be apprised of the pendency of Writ Petition showing the interest of the proposed defendant and, thereafter, the application is required to be decided afresh. Hence, for these reasons this petition is disposed off at motion stage. The

impugned order is set aside and the trial Court is directed to reconsider on the application filed by the petitioners under Order 1 Rule 10 read with the Order 6 Rule 17 of C.P.C. on the basis of the fresh facts which shall be put up before the Court below.

5. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Monika