

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227. No. 32 of 2019**

Raju Ram Yadav S/o Late Ghunaru Yadav Aged About 45 Years R/o Bamleshwari Mandir Chowk, Near Temple, Daganiya, Tahsil And District- Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. (A) Smt. Urvashi Yadav Wd/o Late Diwan Yadav Aged About 58.
- 1.- (B) Manoj Yadav S/o Late Diwan Yadav Aged About 38.
1. - (C) Mukesh Yadav S/o Late Diwan Yadav Aged About 34 Years.

All R/o Bammeshwari Mandir Chowk, In Front Of Temple, Daganiya, Raipur, Tahsil And District- Raipur, Chhattisgarh.

1. - (D) Smt. Madhu D/o Late Diwan Yadav Aged About 40 Years R/o. Behind Vishwakarma Mandir, Mahoba Bazar Raipur, Tah. And Distt. Raipur, Chhattisgarh.
1. - (E) Smt. Manju D/o Late Diwan Yadav Aged About 36 Years R/o Bamleshwari Mandir Chowk, In Front Of Temple, Danganiya, Raipur, Tah. And Disst. Raipur, Chhattisgarh.
2. Kishan @ Dabbu Yadav S/o Kartik Yadav Aged About 42 Years, R/o. Kartik Hotel, Bamleshwari Mandir Chowk, In Front Of Temple, Danganiya, Raipur, Tahsil And District- Raipur, Chhattisgarh.

---Respondents

For Petitioner : Mr. Rajesh Tiwari, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****16.01.2019**

1. By the impugned order dated 29.10.2018 petitioner's application under Order 26 Rule 9 of the Code of Civil Procedure has been rejected by the trial Court, against which this writ petition has been preferred.
2. I have heard learned counsel for the petitioner and perused the impugned order.
3. The petitioner/plaintiff filed an application on 17.06.2013 for appointment of Commissioner, which has been decided after five years by cryptic order holding that the burden of proof lies on the plaintiff. The trial Court did not take pain to consider the merits of the said application whether the appointment of Commissioner is just and necessary for proper disposal of the suit and by unreasoned and non-speaking order, the application has been rejected which cannot be approved. The trial Court is expected to consider the interim application expeditiously and to proceed with the matter and to decide the suit expeditiously. This act of the trial Court

keeping the interlocutory application pending for more than five years and deciding it by the cryptic order is hereby deprecated. The impugned order is hereby set aside with a direction that the trial Court shall consider the application afresh after hearing the parties within a week from the date of receipt of a copy of this order.

4. If respondents feel aggrieved with this order, they are at liberty to file application for modification of this order.
5. A copy of this order be sent to the concerned trial Court directly and through Email and Fax.

Sd /-

(Sanjay K. Agrawal)
Judge

J/-