

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 57 of 2020

Anil Kumar @ Sunil Kumar Sharma S/o Late Babulal Sharma Aged About 55 Years Resident Of Sima Medical Store, in front of Dr. Rajdawa Clinic, Badaipara, Raipur, Chhattisgarh, District : Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Rajesh Kumar Sahu S/o Late Shri Chaitram Sahu Occupation Cultivator, Resident Of Near Babulal Aara Machine Badaipara, Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Kashiram@ Kashinath S/o Kashinath Sharma Son Of Late Satyanarayan Sharma, Occupation Service, Resident Of Badaipara Raipur, Tahsil And District Raipur Chhattisgarh.
3. Dhumraj Vishwakarma S/o Late Ramkripal Vishwakarma Occupation Shopper, Resident Of Badaipara, Raipur , District Raipur Chhattisgarh.
4. Forest Division Officer, Forest Division Shahid Bhagat Road, Raja Talab, Raipur, Tahsil And District Raipur Chhattisgarh.
5. State Of Chhattisgarh Through Collector, Raipur, District Raipur Chhattisgarh.
6. Raju@ Raj Kumar Sharma S/o Late Babulal Sharma, Resident Of Sima Medical Store, Infront Of Dr. Rajdawa Clinic, Badaipara, Raipur Chhattisgarh Defendant No. 2, District : Raipur, Chhattisgarh

---- Respondents

For the Petitioner : Shri P.K. Patel, Advocate.
For the Respondent/ State : Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-01-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 20.12.2019 passed by the Learned trial Court in Civil Suit No. 59-A of 2014 dismissing the application filed by the petitioner under Order XIV Rule 3B and 5 read with Section 151 of the Code of Civil Procedure.
2. It is submitted by counsel for the petitioner that no issue was framed by the Learned Court below in the application filed by the petitioner on the

basis of averments made by the petitioners in their written statement before the Court, therefore, the rejection of the prayer of the petitioner made in their application is erroneous, arbitrary and illegal. The framing of issues, as prayed for, by the petitioner was essential for the proper determination of the dispute between the parties. Hence, it is prayed that the impugned order be interfered with.

3. Learned State counsel appearing on behalf of respondents No.4 and 5 makes a formal objection.
4. Considered the submissions made in this petition. On perusal of the copy of the application under Order XIV Rule 3(B) and 5 read with Section 151 of the CPC, it is found that the application for framing additional issues was filed repeatedly by the petitioner and this has been said in the impugned order also, that the application which was filed was a repeat application. The petitioner had an opportunity to challenge the order of the trial Court rejecting the earlier application for framing the additional issues which they have not done, therefore, the repeat application filed by the petitioner in the trial Court was dismissed. Hence, I do not find any substance to allow this petition, which is dismissed at the motion stage.
5. Accordingly, the petition is dismissed at motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge