

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 249 of 2020

1. Shubham Gupta, Shri Kaushal Gupta, Aged About 24 Years, R/o Village-Kuruwa (Panditpara), Police-Station-Vishrampur, Tahsil and District-Surajpur, Chhattisgarh.
2. Kaushal Kumar Gupta, S/o Late Shri Lalji Gupta, Aged About 48 Years, R/o Village- Kuruwa (Panditpara), Police-Station-Vishrampur, Tahsil and District-Surajpur, Chhattisgarh.

---- Petitioners

Versus

1. Kuldeep Gupta, S/o Radheshyam Gupta, Aged About 15 Years (Minor) Through Guardian Father Radheshyam Gupta, S/o Late Shri Kedar Ram Gupta, Aged About 56 Years, Occupation-Service, Caste-Kaser, R/o Kuruwa (Navapara), Police-Station-Vishrampur, Tahsil and District-Surajpur, Chhattisgarh.

---- Respondent

For petitioners	:	Mr. Shakti Raj Sinha, Advocate.
For respondent	:	None.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

03/03/2020

Heard.

1. This petition has been brought being aggrieved by the order dated 9.1.2020 passed by the learned Additional Motor Accident Claims Tribunal, Surajpur (for short 'the Claims Tribunal'), by which the Executing Court has issued a direction to send the petitioners to jail in the procedure of execution of the award.
2. It is submitted that on 26.10.2018 an ex-parte award was passed against the petitioners in Claim Case No.90/2018. On coming to know about the passing of such an award against them, on 26.6.2019 the petitioners have filed an application under Order 9 Rule 13 of CPC before the learned Claims Tribunal, which is pending consideration. The petitioner has brought this fact to the knowledge of the Executing

Court even then the Executing Court is proceeding to execute the award. Therefore, it is prayed that a direction be issued to the Executing Court to first decide the application of petitioners filed under Order 9 Rule 13 of CPC, instead of proceeding with execution proceeding.

3. Considered on the submissions.
4. Taking into consideration the facts and circumstances of case, this petition is disposed off at motion stage with liberty to the petitioners to make a prayer in the proceeding under Order 9 Rule 13 of CPC pending before the Claims Tribunal, for stay of execution proceeding. The Claims Tribunal is directed to make every endeavor to decide the application filed under Order 9 Rule 13 of CPC as expeditiously as possible and preferably within a period of three months from the date of production of certified copy of this order.

Sd/-

(Rajendra Chandra Singh Samant)
Judge