

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 438 of 2019

Dhananjay Singh S/o Ram Naresh Singh Aged About 40 Years R/o House No. 135, Street No. 01, Shanti Nagar, Bhilai, Tahsil And District Durg Chhattisgarh.

---- Petitioner

Versus

1. Kumari Sarita Meshram W/o R. H. Meshram Aged About 72 Years Through Power Of Attorney R. H. Meshram, R/o House No. 134, Street No. 01, Ward No. 11, Shanti Nagar, Bhilai, District Durg Chhattisgarh.
2. Ramesh Agrawal S/o Babu Lal Agrawal (Jalebi Wala) Aged About 45 Years R/o Ward No. 08, Aarya Nagar, Kohka, Tahsil And District Durg Chhattisgarh.
3. Smt. Rajrani Singh (Dead) Through Rajesh Agrawal Aged About 50 Years, S/o Not Known, Through Kalvindar Singh, Kohka Bhilai, Tahsil And District Durg Chhattisgarh, At Present R/o Hil Colony, Collage Road Rani Butik, Aam Post Kulti, District Aasansol Vardhman, West Bengal.
4. Kalvindar Singh S/o Late Pyara Singh Aged About 50 Years R/o Near Lal Lakaddi Aara Mill, Chandra Nagar, Kohka, Bhilai, Tahsil And District Durg Chhattisgarh.
5. Smt. Jagindar Kaur W/o Dalveer Singh Aged About 60 Years R/o Qrt. No. 104, Street No. 01, Shanti Nagar, Kohka Bhilai, Tahsil And District Durg Chhattisgarh.
6. Office Of Administrative Officer Zone 02, Vaishali Nagar, Nagar Palika Bhilai, Tahsil And District Durg Chhattisgarh.
7. Assistant Engineer Chhattisgarh Rajya Vidyut Vipran Company Maryadit Vaishali Nagar, Bhilai, District Durg Chhattisgarh.

---- Respondents

For Petitioner	: Shri Manish Upadhyay, Advocate.
For Respondent No.1	: Shri R.S. Patel, Advocate.
For Respondent No.6	: Shri Pankaj Agrawal, Advocate.
For Respondent No.7	: Shri Raja Sharma, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-02-2020

1. Heard.
2. This petition has been brought being aggrieved by the order dated 14.5.2019, by which an application filed by the petitioner under Section

151 of the Code of Civil Procedure before the Court below in M.J.C. No.7 of 2019 was dismissed.

3. It is submitted by counsel for the petitioner that a civil suit was filed by respondent No.1 against the petitioner and others which was registered as Civil Case No. 61A of 2015. The suit was decided as *ex parte* against the petitioner by judgment dated 29.9.2018 and reliefs were granted in favour of respondent No.1. The petitioner has filed an application under Order IX Rule 13 of the CPC before the same Court praying for setting aside the *ex parte* judgment and decree against him, which is pending. In the meanwhile, the petitioner filed an application under Section 151 of the CPC praying that the electric connection which he is enjoying in the suit property may not be disturbed and specific order be passed in that respect. It is further submitted by counsel for the petitioner that by the impugned order learned Court below has held that the application filed by the petitioner is a review application which is barred by limitation and the same has been dismissed.
4. It is submitted by counsel for the petitioner that on filing of this writ petition this Court has on 20.5.2019, ordered that right to electricity is human right and on that basis, the respondents' concerned were ordered to refrain from disturbing the electric connection of the petitioner till the next date of hearing. It is also submitted that the whole issue is related to the proceedings pending before the Court below under Order IX Rule 13 of the CPC, therefore, the petition may be disposed off with a specific direction in the Court below to conclude the proceedings within a time frame and also to protect the interest of the petitioner in his enjoying the electric connection in the suit property.
5. Learned counsel for respondent No.1 opposes the submissions made in this respect and submits that there is already a decree in favour of the

petitioner and the same has not been set aside so far. Therefore, the learned Court below has not committed any error in passing the impugned order. There is no disagreement that the proceedings under Order IX Rule 13 of the CPC can be disposed off within time, however, the prayer of the petitioner to protect his interest regarding the electric connection till the disposal of his proceedings is opposed.

6. Learned counsel for respondents No.6 and 7 make a formal objection.
7. Heard counsel for both the parties and perused the documents present on record.
8. After considering the submissions made from both the parties and on the basis of the view taken by this Court in order dated 20.5.2019, I am of this view that this kind of protection should be given to the petitioner till the proceedings under Order IX Rule 13 of the CPC is disposed off and also a direction can be issued for the expeditious disposal of the application of the petitioner before the Court below. Therefore, the petition is disposed off and learned Court below is directed to expedite and conclude the proceedings pending before it on the application filed by the petitioner under Order IX Rule 13 of the CPC, preferably within a period of two months. The protection that has been granted to the petitioner by the interim order of this Court shall continue till the conclusion of the proceedings before the Court below.
9. Accordingly, the petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge