

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 471 of 2020

Raju Sahu, S/o. Sahas Ram Sahu, aged about 25 years, R/o. Village Mudpar, P.S. and Tahsil Jaijaipur, District Janjgeer Champa Chhattisgarh.

---- Petitioner

Versus

Ful Bai, D/o. Mohan Lal, aged about 24 years, Caste- Sahu, R/o. Village Mudpar, P.S. and Tahsil Jaijaipur, District Janjgeer Champa Chhattisgarh.

-----Respondent

For Petitioner

: Mr. Rajat Agrawal, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

25/11/2020

1. This petition under Article 227 of the Constitution of India has been brought being aggrieved by the order dated 04.09.2020, passed by the learned First Additional District – Judge, Sakti, District – Janjgir- Champa (C.G.) in Civil Suit No.5-B/2009.
2. The petitioner is defendant in Civil Suit No.5-B/2009. Respondent/plaintiff filed an application before the trial Court, praying for withdrawal of civil suit. The learned trial Court has by order impugned observed that by the order dated 26.08.2010, passed in W.P.(227) 1972/2010, the High Court has stayed the proceeding of the civil suit until the pendency of the criminal appeal against the petitioner.
3. It is submitted by the counsel for the petitioner that the learned trial Court has made an erroneous interpretation of the order

passed by this Court in W.P.(227) No.1972/2010 dated 26.08.2010, therefore, the impugned order is not sustainable.

Prayer has been made to quash the same.

4. Considered on the submissions and perused the documents present on record.
5. The operative part of the order dated 26.08.2010, in W.P.(227) No.1972/2010 are as follows :-

“9. In the circumstances, it is directed that the petitioner/defendant shall file his written statement within a period of four weeks from today and shall also pay cost of Rs.2000/- to the respondent/plaintiff. The written statement shall be placed on record of the civil suit.

10. The respondent shall be at liberty to move an application for early hearing of the Criminal Appeal No.487/2008, pending in this Court.”

6. On perusal of this order, it is found that the High Court has disposed off the petition by granting opportunity to the petitioner/defendant to file a written statement and then a liberty was also given to the respondent to move an application for early hearing on Criminal Appeal No.487/2008. The order nowhere speaks about staying the proceeding of the civil suit, therefore, I am of this view that the learned trial Court has made incorrect interpretation of the order. It was only for that reasons, the impugned order has been passed keeping the application for withdrawal of the civil suit pending. The order passed by the Court below is erroneous and hence, this part of the impugned

order staying the consideration of the application for withdrawal of suit is quashed and the learned trial Court is directed to consider on the application filed by the respondent for making withdrawal of the civil suit and dispose of the same in accordance with law.

7. Accordingly, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram