

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 69 of 2019****RESERVED ON 8-1-2020****DELIVERED ON 9-1-2020**

1. Smt. Sumitra Devi Wd/o Motilal Aged About 74 Years
2. Shivkumar Saraf S/o Motilal Aged About 57 Years
3. Deepak Kumar Saraf S/o Motilal Aged About 54 Years

All R/o Mahima Niwas, Behind Motilal Service Station, Link Road, Bilaspur, District Bilaspur CG

4. Rashmi Singh W/o Shri Dharmendra Singh Aged About 51 Years 25 Bangla, Maharana Pratap Chowk, Bilaspur, Tehsil And District Bilaspur CG

---- Petitioners**Versus**

1. Smt. Vidyawati Saraf W/o Lakhan Lal Saraf Aged About 82 Years
2. Radheshyam Saraf aged 63 years
3. Smt. Shivani Saraf aged 57 years
4. Smt. Ramani Saraf aged 45 years
5. Smt. Meenakshi Saraf aged 42 years
6. Purushottam Saraf Aged About 47 Years

No. 2 to 6 father Lakhanlal Saraf, all R/o Geetanjali Nagar, Kashyap Coloney, Gali No. 5, Bilaspur Tehsil And District Bilaspur CG. Mo. No. 98261-48080

---- Respondents

For Applicants	: Mr. Sudhir Agrawal, Adv.
For Non-applicant No. 1 & 3 to 6	: Mr. Ashwarya Pandey and Mr. P.K. Tulsian, Adv.
For Non-applicant No. 2	: None though served.

Hon'ble Shri Sharad Kumar Gupta, Judge**CAV ORDER**

1. Applicants have preferred this TPC under Section 24 of the Civil Procedure Code (in short 'CPC') seeking relief that execution case No. EXCS (A)-14/2019 pending before the District Judge, Bilaspur and Civil Suit No. 145-A/2019 pending before 7th Civil Judge Class 2, Bilaspur be tried by one Court hence one case be transferred to the Court where another case is pending.

2. In brief, the applicants' case is that earlier deceased Lakhanlal had filed a civil suit No. 10-A/1999 against deceased Motilal wherein the District Judge, Bilaspur gave finding on 12-5-2000 that deceased Lakhanlal had

given the disputed land Khasra No. 640 measuring 0.94 decimal situated at Juna Bilaspur to Motilal on rent. The suit was decreed in favour of deceased Lakhanlal and deceased Motilal was ordered to hand over the vacant possession of disputed land to deceased Lakhanlal and also pay him damages. The respondents are the legal representatives of deceased Lakhanlal and applicants are the legal representatives of deceased Motilal. Respondents have filed the aforesaid execution case before the District Judge, Bilaspur which is pending. Applicant No. 2 Shiv Kumar has filed the aforesaid civil suit against respondents before the 7th Civil Judge Class 2, Bilaspur seeking relief that disputed land Khasra No. 640 measuring 22599 sq. ft is in his possession and they are not entitled to evict him except the legal proceedings and they should be restrained by permanent injunction. In both the cases, Khasra No. 640 is involved. Hence it would be proper that both the cases be tried by one court.

3. In brief, the respondents' case is that both the cases are different in nature. No reason exists to transfer one case to the court where the another case is pending.

4. In the case in hand, execution case and aforesaid civil suit are of different nature. It does not appear that it would be proper that both the cases are heard by one court. Prima facie no sound ground is in existence on strength of which one case may be transferred to the Court where another case is pending. It does not appear proper that provisions of Section 24 of the CPC may be applicable in the present case.

5. Consequently, present transfer petition being devoid of merit deserves to be and is hereby dismissed *in limine*.

6. In view of above order, application for grant of interim relief is also rejected.

7. No order as to costs.

Sd/-
(Sharad Kumar Gupta)
Judge