

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WP227 No. 1069 of 2018

- Ramesh Kumar Chabra S/o Shri Omprakash Chabra, Aged About 62 Years, R/o Near Telephone Exchange Road, Behind Geeta Lodge, Bilaspur, P.S. Civil Line, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
Plaintiff

---- **Petitioner**

Versus

1. Surender Kashyap S/o Late Umanath Kashyap, Aged About 56 Years, R/o Kashyap Colony, Gali No.3, Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. State of Chhattisgarh Through - Collector, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- **Respondents**

For Petitioner : Shri Ratnesh Kumar Agrawal, Advocate.
For Respondent No.1 – Shri Bharat Rajput, Advocate.
For State/Respondent No.2 – Shri Sudhir Sahu, Panel Lawyer.

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

06/03/2020

Heard.

1. This petition has been brought being aggrieved by the order dated 05-09-2018 by which the application filed by the petitioner/plaintiff under Order 1 Rule 10 of the CPC has been dismissed.
2. It is submitted that the petitioner has filed a civil suit praying for relief of possession and permanent injunction on the suit property described as Khasra No.496/15 area 0.01 acre, which is stated to be in possession of the respondent side. The civil suit was filed in the year 2012 and in subsequent development deceased respondent Rambai has alienated the property to one Deepak and Preeti by sale deed dated 25-03-2018 and by similar dated sale

deed Amit son of respondent No.1 Surendra Kashyap has alienated the same property to Shubham and Shivam. Therefore, the application was filed by the petitioner to array the subsequent purchasers and one of transferrors Amit is necessary party in the case, which has been rejected by the trial Court without appreciating the facts and circumstances and law in this respect. Therefore, the impugned order be interfered with.

3. Learned counsel appearing for respondent No.1 submits that the description of the property sold by deceased respondent Rambai and Amit is different and therefore, if the petitioner has any cause of action in that case he will have to file a separate suit. Hence, the proposed persons are not necessary parties in this case.
4. Heard learned counsel for the parties and perused the documents.
5. On perusal of the application filed for impleadment of the additional parties, it is found that the application was not complete with necessary details of the property sold, so as to make out whether it is the disputed property or not and also the description of the sale deeds executed are not mentioned. Apart from that if it is a case in which the suit property has been sold out by respondent side during pendency of the case, then there will be also requirement for bringing amendment in the pleading to describe the subsequent event and the necessity of making additional party. Hence, I am of this view that the application filed was not proper and therefore, no proper order could have been passed by the Court below. On this basis the petition is disposed off at motion stage. The impugned order is set aside. The petitioner is granted liberty to file repeat application for impleading additional parties and also for making

amendment in the plaint if it is so advised by his counsel and in case such application is filed the learned Court below is directed to decide the same after giving proper opportunities of hearing to both the parties.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil