

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.1008 of 2019

- Harbhajan Singh Gambhir S/o Preetam Singh Gambhir Aged About 39 Years R/o Shri Ram Towers, Near ICICI Bank, Vyapar Vihar, Bilaspur Chhattisgarh Correct Address is Opp. Gurudwara, Dayalband, Bilaspur, Tah. And District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Smt. Manju Devi Farvi W/o Late Badri Prasad Aged About 35 Years
2. Ku. Rashmi D/o Late Badri Prasad Aged About 17 Years Minor Through Their Natural Guardian Mother Smt. Manju Devi Farvi, W/o Late Badri Prasad, Aged About 35 Years
3. Hemant Kumar S/o Late Badri Prasad Aged About 15 Years Minor Through Their Natural Guardian Mother Smt. Manju Devi Farvi, W/o Late Badri Prasad, Aged About 35 Years
4. Ku. Preeti D/o Late Badri Prasad Aged About 13 Years Minor Through Their Natural Guardian Mother Smt. Manju Devi Farvi, W/o Late Badri Prasad, Aged About 35 Years,

(all are r/o Village Bitkuli, Tahsil Bilha, District Bilaspur Chhattisgarh)
5. Bramha Yadav S/o Late Chhavilal Yadav Aged About 45 Years R/o HL-1B, Khan Road, Vidyapati Nagar, Baridih, Jamshedpur (Jharkhand) R/o K.P. Road Lines, Shri Ram Towers, Vyapar Vihar, P.S. Civil Lines, Bilaspur, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner : Mr. Abhijeet Mishra, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-01-2020

Heard.

1. This petition has been filed being aggrieved by the order dated 18.07.2019 passed by the 8th A.M.A.C.T., Bilaspur, dismissing the

application under Order 21 Rule 26 of C.P.C.

2. Learned counsel for the petitioner submits that respondent No.1 to 4 filed Claim Case No.243/2014 which has been disposed off by the learned 8th M.A.C.T. without notice to the petitioner, who was a non-applicant party in that case. The petitioner challenged the award dated 13.07.2015 by filing an application under Order 9 Rule 13 of C.P.C. In the meanwhile, the respondent No.1 to 4 have filed execution proceeding on the basis of the award passed in their favour. This applicant filed an application under Order 21 Rule 26 of C.P.C. praying for stay of execution proceeding which has been dismissed arbitrarily, unreasonably and against the provision of law. Therefore, it is prayed that petition be allowed and appropriate order be passed.
3. Considered on the submissions made by the learned counsel for the petitioners, the petitioner has liberty to file application before the Court in which the proceeding under Order 9 Rule 13 of C.P.C. is pending and seek the interim relief in the same case. Without going into the merits, this petition is disposed off at the motion stage. The petitioner is at liberty to file application before the Court of learned M.A.C.T. in proceeding under Order 9 Rule 13 of C.P.C. making a prayer for stay of execution proceeding. The learned M.A.C.T. is also directed to consider on the same and without being influenced by any observation made in this order, pass order in accordance with law.
4. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge