

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 259 of 2021

- Ramprasad S/o Late Karamdev Prasad, Aged About 60 Years, Caste-Koir Resident of Village- Jarhi, Police Station-Bhatgaon, Tahsil -Pratappur, District - Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Petitioner

Appellant

Versus

1. Balram Prasad Mahto S/o Mallu Mahto, Aged About 70 Years, Caste-Koir Occupation - Retired Clerk, Block-Pratap, Resident of Village-Khorma, Tahsil and Police Station-Pratappur, District-Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
2. State of Chhattisgarh, through the Collector, Surajpur, District-Surajpur Chhattisgarh.

----Respondents

For Petitioner – Shri Rahul K. Mishra, Advocate.

For State/Respondent No.2 – Shri Sameer Uraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08-06-2021

Heard.

1. This petition has been brought being aggrieved by the order dated 17-03-2021 by which the application filed by the petitioner under Order 41 Rule 27 of the CPC was dismissed by the appellate Court.
2. It is submitted that the petitioner is appellant in Civil Appeal No.05-A/2019 pending before the Court of Additional District Judge, Pratappur, District Surajpur. The application under Order 41 Rule 27 of the CPC was filed with bonafide reasons and for the purpose that relevant evidence should present on record before adjudication of the matter before the Court. Learned appellate Court has erroneously dismissed the application at preliminary stage, the application deserved to be decided at the final stage along with the decision of the appeal itself. Therefore, the impugned order is erroneous and liable to be set aside.
3. Learned counsel for the State appearing for respondent No.2 makes

formal objection.

4. After considering on the submission, the petition is disposed off at motion stage. The impugned order is set aside and the application under Order 41 Rule 27 of the CPC filed by the petitioner is restored. Learned appellate Court is directed to reconsider on this application at the stage of deciding the appeal finally taking into consideration the consequences that may occur on making decision on this application.

5. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge