

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.380 of 2021

- Shankar Lal Agrawal S/o Late Shri Ram Krishna Agrawal Aged About 57 Years R/o Near Gandhi Chowk, Main Road, Juna Bilaspur District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Vishnukant Agrawal S/o Late Vyas Narayan Agrawal Aged About 60 Years Occupation Agriculturist, R/o Shiv Talkies Road, Bilaspur Tahsil And District Bilaspur Chhattisgarh
2. Shivkumar Shukla S/o Late Vyas Narayan Shukla Aged About 64 Years Occupation Agriculturist, R/o Bachhaud, Tahsil Janjgir, District Janjgir Champa Chhattisgarh
Presently Residing At Seepat Chowk, Sarkanda, Bilaspur Tahsil And District Bilaspur Chhattisgarh
3. Arvind Kumar Shukla S/o Late Vyas Narayan Shukla Aged About 52 Years R/o Mahuda, Post Mahuda, Tahsil Janjgir, District Janjgir Champa Chhattisgarh
4. Amrit Lal Agrawal S/o Late Vyas Narayan Agrawal Aged About 69 Years Occupation Business R/o Bus Stand, Baloda District Janjgir Champa Chhattisgarh
5. State Of Chhattisgarh Through Collector, Janjgir Champa, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	– Mr. Vivek Kumar Agrawal, Advocate.
For State/respondent No.05	– Mr. Anil Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

19-08-2021

Heard.

1. This petition has been brought being aggrieved by the order dated 24.07.2021 passed in Civil Suit No.8-A of 2007 by the Court of Civil Judge, Class-I, Akaltara, District- Janjgir-Champa, C.G. rejecting the application filed under Order 14 Rule 5 of C.P.C.
2. It is submitted that the petitioner is the plaintiff in the Civil Suit mentioned hereinabove who has filed the plaint for reliefs declaration and possession with respect to the suit property. It is pleaded in the paragraph No.5 of the plaint that the petitioner had filed a Civil Suit No.9A of 1997 praying for relief of declaration and injunction, in which the petitioner was also a party that suit has been decreed on 08.03.1998.
3. It is submitted that the decision of the Civil Suit No.9A of 1997, in which the petitioner and respondent No.1 both were parties, has attained finality, therefore, it has binding effect on the parties regarding which the issue was required to be framed. This application was contested by the respondent side. The learned trial Court has held that the document regarding the previous judgment and decree is present in the record which shall be treated as evidence at later stage. And further, a separate application under Order VI Rule 17 of C.P.C. which was filed by the petitioners was rejected by the trial Court and the challenge given to it in W.P.(227) No.174 of 2021 was also dismissed vide order dated 18.03.2021, therefore, there is no requirement of framing of issues.
4. Considering on the submissions, it is pleaded in the plaint that the land described in Schedule 'A' of the plaint is the suit land which has fallen in the share of the petitioner/plaintiff. In the pleading regarding, the Civil Suit No.9A/1997 which has been decreed vide judgment dated

08.03.1998, there is no mention that the suit land was subject matter of that previous Civil Suit. It is also pleaded that the suit land has been encroached upon by the respondents regarding which the relief of possession is also sought.

5. Considering that the judgment and decree in the Civil Suit No.9A/1997 it does not appear to be directly an issue in the present Civil Suit pending between the parties, therefore, I am of this view that the learned trial Court has not committed any error in rejecting the prayer for framing of additional issues, hence, this petition appears to be devoid of any merit, which is dismissed and disposed off at the motion stage.
6. Accordingly, this petition stands disposed off.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge