

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 427 of 2021

1. Umesh Kumar Sharma, S/o. Late Vishnu Prasad Sharma, aged about 61 years, Occupation - Service (Asst. Gr. III), Education Department, I.T.I. Raipur, Temporary Address - Gudhiyari, Near Fish Pond, Raipur Chhattisgarh.
2. Dinesh Kumar Sharma, S/o. Late Vishnu Prasad Sharma, aged about 59 years,
3. Prabhat Kumar Sharma, S/o Late Vishnu Prasad Sharma, aged about 44 years, Occupation - Purohit,

Both are Permanent R/o- Sadar Bazar, Nandayee Road, Near Basantpur Police Station, Tahsil and District Rajnandgaon Chhattisgarh.

---- Petitioners

Versus

Nandkishore Mishra, S/o. Late Murli Manohar Mishra, aged about 69 years, Occupation - Doctor, Samta Manch, Rajnandgaon, R/o. Sadar Bazar, Nandayee Road, Near Police Station Basantpur, Tahsil and District - Rajnandgaon Chhattisgarh.

---- Respondent

For Petitioner : Mr. A.N. Bhakta, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

07/09/2021

1. This petition has been brought being aggrieved by the order dated 05.08.2021 and the order dated 09.08.2021. The specific grievance is against the order dated 09.08.2021, by which the application filed by the petitioner under Order 23 Rule 1 read with Section 151 of C.P.C. was dismissed by the trial Court.
2. Considered on the submissions.
3. Application under Order 23 Rule 1 of C.P.C. has to be considered by the Court in the light of Sub-rule 3 of the Order 23 Rule 1 of C.P.C. The impugned order dated 09.08.2021 that has been passed does not appear to have been passed in accordance with this provision of law, therefore, this petition is disposed off at motion stage. The order dated

09.08.2021 is set-aside. The learned trial Court is directed to reconsider on the application filed by the petitioner under Order 23 Rule 1 of C.P.C. in accordance with the law. It is also ordered that until the application under Order 23 Rule 1 of C.P.C. is decided by the trial Court, the final disposal of the case may be kept in abeyance.

4. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram