

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 544 of 2021

1. Sheikh Mohammad, S/o. Sheikh Fakira, aged about 30 years, Driver, R/o. Camp No. 1, Behind Basant Talkies, P.S. Chhaoni, Bhilai, District Durg Chhattisgarh.
2. Vijay Enterprises Proprietor- Bhajanlal Nagpal, Shop No. 14/A, Vijay Complex, Power House, Bhilai, District Durg Chhattisgarh.

---- Petitioners

Versus

1. Smt. Sanno Bai, W/o. Late Agnuram, aged about 48 years,
 2. Bimlesh Netam, S/o. Late Shri Agnuram, aged about 21 years,
 3. Ku. Binedeshwari Netam, D/o. Late Agnuram, aged about 19 years
 4. Minor Ku. Geeteshwari Netam, D/o. Late Agnuram, aged about 16 years
- No.1 to 4 all are R/o Village Kulhadgaon, Bhandar Seoni, Tehsil Pharasgaon, District Kondagaon Chhattisgarh Through Guardian and Mother Sanno Bai.
5. Branch Manager, SBI General Insurance Co. Ltd. 4th Floor, Pujari Chamber, Pachpedhi Naka, Dhamtari Road, N.H.43, Raipur Chhattisgarh.

---- Respondents

For Petitioners : Mr. G.D. Vaswani, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

07/10/2021

1. This petition has been brought being aggrieved by the order dated 18.08.2021, by which, the application of the petitioner/non-applicants filed under Order 9 Rule 7 read with Section 151 of C.P.C. praying for setting aside ex-parte order against them was rejected.

2. It is submitted by the learned counsel for the petitioners that the impugned order is erroneous and unsustainable. The petitioners have all the intention and sincerity to defend the claim case against them. There is no sufficient progress in the claim case, hence, if the petitioners are granted opportunity, they may be able to defend themselves in the further proceeding.
3. Considered on the submissions. The ex-parte proceeding as contemplated under Order 9 Rule 6 of C.P.C. is with respect to the hearing, which may be conducted in absence of the defendants/non-applicants. As it appears, the case is still being posted for recording of evidence of both the parties, therefore, the petitioners can not be barred for giving appearance and participating in the proceeding and also raising their defence at appropriate stage. Therefore, this Court is of the view that the impugned order is erroneous and unsustainable. Hence, this petition is allowed at motion stage. The impugned order to the extent of dismissal of application under Order 9 Rule 7 read with Section 151 of C.P.C. is set-aside. The learned Motor Accidents Claims Tribunal, Kondagaon is directed to allow the petitioners to participate in the further proceedings and defend the case against them.
4. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge