

**IN THE HON'BLE HIGH COURT OF CHHATTISGARH**  
**AT BILASPUR**      **Single Bench**

3

**W.P.(227) NO. 856 /2014**

**PETITIONERS/**  
**Proposed defendants**

- 1] Smt. Sundar Devi, W/o. Late Shri Rambharos, aged about 97 years
- 2] Raghuv eer Singh, S/o. Late Shri Rambharos, aged about 70 years
- 3] Balveer Singh, S/o. Late Shri Rambharos, aged about 65 years
- 4] Smt. Kunti Singh, W/o. Late Jagdish Singh, aged about 45 years
- 5] Satish Singh, S/o. Late Shri Rambharos, aged about 49 years
- 6] Rajesh Singh, S/o. Late Shri Rambharos, aged about 45 years

All are R/o. Link Road, Chauhan Compound, Bilaspur, Police Station Tarbahar, Civil & Revenue District Bilaspur (C.G.)

**VERSUS**

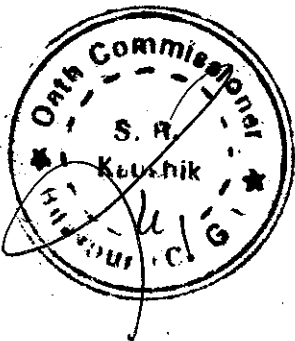
**RESPONDENTS**

- 1] Bhanjan Singh, S/o. Late Ishwar Singh Thakur, aged about 44 years, R/o. Sarkanda Bilaspur, Police Station Sarkanda, Civil & Revenue District Bilaspur (C.G.)

**Respondent/plaintiff**

- 2] Smt. Janki Bai, W/o. Late Harnam Singh Sengar, aged about 70 years
- 3] Raghuraj Singh, S/o. Late Harnam Singh Sengar, aged about 50 years
- 4] Rajkumari, D/o. Late Harnam Singh Sengar, aged about 48 years
- 5] Hemlata, D/o. Late Harnam Singh Sengar, aged about 46 years
- 6] Prabhas Singh, D/o. Late Harnam Singh Sengar, aged about 44 years
- 7] Rekha Singh, D/o. Late Harnam

P.B. No. 856/14  
Presented by Shri Vikram Jart  
dated 25.11.14



6  
(u)  
Singh Sengar, aged about 40 years

All are R/o. Near Arya Samaj  
Mandir, Gondpara, Police Station  
City Kotwali, Civil & Revenue  
District Bilaspur Chhattisgarh

***Respondent No. 2 to 7 are  
defendant No. 1 to 6 in the Trial  
Court.***

**WRIT PETITION UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA**

37

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (227) No. 856 of 2014

PETITIONERS

Smt. Sundar Devi and others

Versus

RESPONDENTS

Bhanjan Singh and others

-----  
Shri Manoj Paranjpe, counsel for the petitioners.  
-----

SINGLE BENCH : HON'BLE SHRI PRASHANT KUMAR MISHRA, J.

ORAL ORDER  
(28/11/2014)

Petitioners have assailed the legality and validity of the order passed by the trial Court rejecting his application under Order 1 Rule 10 of Code of Civil Procedure seeking impleadment as defendant in a suit for specific performance filed by the respondent No.1 Bhanjan Singh against respondents No. 2 to 7.

2. Plaintiff Bhanjan Singh has filed a suit for specific performance of contract and for permanent injunction with respect to property bearing Khasra Nos. 602, 603, 604 and 605, area 0.15 acres situate at Juna Bilaspur, Patwari Halka No. 227, Main Link Road, Main Road, Bilaspur. It has been pleaded in the plaint that the defendants/respondent Nos.2 to 7 have executed an agreement on 09/11/2001 for selling the suit property in favour of plaintiff for a sum of Rs.5,01,000/- and received Rs.95,000/-. They received additional amounts and on the date of filing of the suit they had already received Rs.1,15,000/-.

3. Petitioners moved the subject application (Annexure P/6) inter alia stating that a suit filed by one Chhotelal against Harnam Singh, husband of defendant Janki Bai and father of defendants No. 2 to 6, as also against the present petitioners was dismissed for want of prosecution, however, the counter claim preferred by the present petitioners was allowed declaring that the present suit land and an

additional Khasra No. 508 is jointly owned by the petitioners Sundar Devi, Raghuveer Singh, Balveer Singh, Jagdish Singh (husband of petitioner No. 4 Kunti Singh), Satish Singh and Rajesh Singh as also by Smt. Chandra Devi, Smt. Geeta Bai, Musammat Pushpa Devi, Laxmi Baras and Kaushal Baras, therefore, the petitioners having title over the suit property they are necessary parties and the trial Court has committed serious illegality by rejecting the application for impleadment. He would also submit that in another suit the petitioner have already been impleaded.

4. Learned counsel for the petitioners has strenuously urged that in view of law laid-down by Supreme Court in **Sumtibai and Others Vs. Paras Finance Co. And Others (2007) 10 SCC 82**, any party who has semblance of title in a suit property can be allowed to be impleaded, therefore, the trial Court has committed error of jurisdiction.

5. In **Sumtibai** (supra) a two Judges Bench of Supreme Court has distinguished **Kasturi Vs. Iyyamperumal and Others (2005) 6 SCC 733** to observe that "there is no absolute proposition that whenever a suit for specific performance is filed by A against B, a third party C can never be impleaded in that suit. In our opinion, if C can show a fair semblance of title or interest he can certainly file an application for impleadment. To take a contrary view would lead to multiplicity of proceedings because then C will have to wait until a decree is passed against B, and then file a suit for cancellation of the decree on the ground that A had no title in the property in dispute. Clearly, such a view cannot be countenanced".

In the case of **Sumtibai** (supra) the application for impleadment was moved by legal heirs of one of the defendant, therefore, the facts of the present case is clearly distinguishable from the facts of **Sumtibai** (supra).



39

-3-

6. A three Judges Bench of Supreme Court in *Kasturi (supra)* held that in a suit for specific performance of contract, only the parties to the contract or parties claiming under them or a person who had purchased the contracted property from the vendor with or without notice of the contract are necessary parties. Any person who claims independent title and possession adverse to the title of vendor is not a necessary party. The Supreme Court also repealed the argument (in para 20) that impleadment of the parties who have applied for impleadment would finally and effectively settle the dispute, therefore, to avoid multiplicity, it would be appropriate to join them. It has been held that such arguments has no substance because the party claiming impleadment must have a right to the same relief against the party relating to the same subject matter involved in the proceeding for specific performance of contract for sale. It has also been observed (in para 18) that in a suit for specific performance of contract for sale the plaintiff is dominus litis and cannot be forced to add parties against whom he does not want to fight unless it is a compulsion of the rule of law.

7. In that settled view of the matter, this Court would rely on the three Judges Bench decision of the Supreme Court in *Kasturi (supra)* to hold that the petitioners being not a party to the contract with respect to which the suit for specific performance has been filed and since they are claiming an independent title adverse to the vendor, they are not necessary party in the suit.

8. Accordingly, the petition under Article 227 of the Constitution is dismissed.

Sd/-  
**Prashant Kumar Mishra**  
Judge

K