

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP (227) No. 90 of 2017**

1. Bhagirathi S/o Lakhan Sao ( Died) Through Legal Heirs:  
**1. (A)** Mohro Bai Wd/o Bhagirathi Sao, aged about 65 years,  
**1. (B)** Anand Ram S/o Late Bhagirathi Sao, Aged about 42 Years, Both are resident of Village- Keshla, Tahsil- Pusaur, District- Raigarh, Chhattisgarh  
**1. (C)** Nanki Bai D/o Bhagirathi Sao, W/o Shiv Prasad Sao, Aged about 40 Years, R/o Village- Basanpali, P.S. Rengali, Block Lakhanpur, District- Jharsukda ( Orissa)  
**1. (D)** Gulapi D/o Bhagirathi Sao W/o Pyarilal Sao Aged about 39 Years, R/o Village- Jhulanpali, Tahsil- Pusaur, District- Raigarh, Chhattisgarh  
**1. (E)** Fulobai D/o Bhagirathi Sao W/o Neelmani Sao Aged about 37 Years, R/o Village- Kandagarh, Tahsil And P.S. Pusaur, District- Raigarh, Chhattisgarh  
**1. (F)** Ratna Bai D/o Bhagirathi Sao W/o Babulal Sao Aged about 35 Years, R/o Village Pandaripani ( West), Tahsil And District- Raigarh, Chhattisgarh  
**1. (G)** Santkunwar D/o Bhagirathi Sao Aged about 33 Years W/o Neelambar Sao, R/o Village- Kodatarai, Tahsil And District- Raigarh, Chhattisgarh

**---- Petitioners**

**Versus**

1. Smt. Purnima @ Puny W/o Teekaram Sahu Aged About 60 Years R/o Nayaganj, Raigarh, District- Raigarh, Chhattisgarh
  2. Smt. Ganga Bai W/o Prahlad Sao R/o Village- Keshla, Tahsil Pusaur, District- Raigarh, Chhattisgarh
  3. Naandai Wd/o Late Mohitram Sao R/o Village- Ranbhata, Tahsil- Pusaur, District- Raigarh, Chhattisgarh
  4. Radhabai W/o Munuram Sao R/o Village- Chimtapani, Tahsil- Gharghoda, District- Raigarh, Chhattisgarh
  5. Dutiya W/o Dashrath Sao R/o Village- Aadumuda, Tahsil- Pusaur, District- Raigarh, Chhattisgarh
  6. Showkilal S/o Late Bodhansao,
  7. Pyari D/o Late Bodhansao,
  8. Panchu S/o Late Bodhansao,
  9. Smt. Champa W/o Shyam Sao,
- the defendant No.6 to 9 are R/o Village- Jhulanpali, P.S. And Tahsil- Pusaur, District- Raigarh, Chhattisgarh
10. Shweta W/o Shuklal Sao R/o Village- Aaurda, Tahsil And P.S. Pusaur, District- Raigarh, Chhattisgarh
  11. Smt. Shanta, W/o Panchram Sao, Resident of Kauwatal, Tahsil and District Raigarh (C.G.)
  12. State of Chhattisgarh, through Collector, Raigarh, District Raigarh (C.G.)

**---- Respondents**

For petitioners - Shri Vineet Kumar Pandey, Advocate.  
For Respondent/State – Shri Neeraj Jain, G.A.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order**

**31/01/2017**

1. Heard.
2. This petition is against the rejection of the application under Order 13 Rule 10 of CPC whereby defendants have sought for calling the revenue case bearing No.5/A-6/81-82 in between Anand Ram Vs. Panguri & Ors wherein the original WILL is part of such record. It is contended by the petitioners that they are the defendants. An application was filed by the defendants under Order 13 Rule 10 of CPC to call for the revenue record wherein the original WILL was filed whereas the certified copy of the WILL is already been placed on record in the respective civil suit. It is stated that in order to prove the WILL revenue record would be necessary during the course of evidence as only copy of it has been filed in civil suit which is to be compared with the copy of WILL, which is already on record. It is contended that the defendants may be allowed to lead evidence after calling the revenue case from the concerned court. It is further submitted that the evidence has not yet begun that of the defendants and the petitioners may be allowed to lead their evidence by proving the WILL by comparing it with the original as otherwise it would be great prejudice to the defendants as the claim of the parties can be adjudicated on the basis of that.
3. Perused the order dated 9/01/2017. Perusal of the order would show that certified copy of the WILL has been placed on record. Defendants by such application sought to call for the revenue record pending before Naib Tehsildar in revenue case 5/A-6/81-82 in between Anand Ram Vs. Panguri & Ors. praying that the original WILL is part of the

revenue record, therefore certified copy which is placed in the civil suit has to be compared during the trial/evidence of the parties. Considering the facts of the case, in my considered opinion no prejudice would be caused to either of the parties rather it will advance the cause of justice after revenue case is being called and the original WILL is compared with copy specially when the certified copy of the WILL is already on record. Consequently, the proof of the WILL at this stage when defendants evidence has not begun will advance cause of justice on merits as the right of the parties can be adjudicated on the basis of that and denial thereof may cause serious prejudice and may eventually lead to multiplicity of proceedings. Taking into totality of this, I am inclined to allow this petition. The application under Order 13 rule 10 of CPC is allowed. It is directed that the revenue case pending before Naib Tehsildar Raigarh bearing revenue case 5/A-6/81-82 in between Anand Ram Vs. Panguri & Ors. may be summoned during the course of evidence so as to compare copy of the WILL with the original will, if any which is part of the record.

4. Accordingly, the petition stands allowed.

Sd/-

(Goutam Bhaduri)

JUDGE