

Rahul Shukla Vs Rahul Tiwari And Ors

Court: Chhattisgarh High Court

Date of Decision: Sept. 20, 2019

Acts Referred: Code Of Civil Procedure 1908 " Section 151, Order 1 Rule 10
Constitution Of India, 1950 " Article 227

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Vikram Dixit, Akash Pandey

Final Decision: Dismissed

Judgement

Sanjay K. Agrawal, J

1. This writ petition under Article 227 of the Constitution of India has been filed by the petitioner herein questioning the legality, validity and

correctness of the order dated 20/03/2018 by which application filed by him under Order 1 Rule 10 of the CPC has been rejected by learned 9th

Additional Session Judge, Bilaspur in Civil Suit No. 41- A/2017.

2. Mr. Vikram Dixit, learned counsel for the petitioner would submit that impleadment of the present petitioner in the civil suit filed by respondents No.

1 and 2 is absolutely necessary. Though the petitioner herein has filed a separate suit, but in the suit filed by respondents No. 1 and 2, his impleadment

is imperative, therefore, impugned order be set aside and it be directed that the present petitioner be impleaded as a party in the civil suit filed by

respondents No. 1 and 2 herein.

3. I have heard learned counsel for the petitioner at length.

4. It is the admitted position on record that firstly, petitioner filed a suit for declaration of agreement of sale dated 15/12/2016 as null and void which is

registered as Civil Suit No. 40A/2017 and pending consideration before the Court of 9th Additional District Judge, Bilaspur against respondents No. 1

to 3 herein. Thereafter, respondents No. 1 and 2 herein filed a suit for specific performance of contract on 18/05/2017 which is registered as Civil Suit

No. 41A/2017, in which the present petitioner moved an application under Order 1 Rule 10 of the CPC for his impleadment as a party/defendant,

which has been rejected by the impugned order. Admittedly, the petitioner has already filed a civil suit for cancellation/declaration of agreement dated

15/12/2016 as null and void, so his impleadment in the subsequent suit filed by respondents No. 1 and 2 seeking specific performance of the contract

cannot be held as necessary and proper.

5. The remedy, if any, available to the petitioner is to get the suit consolidated by invoking provisions contained under Section 151 of the CPC,

however, he is neither necessary nor proper party in the civil suit filed by respondents No. 1 and 2 seeking specific performance of the agreement

dated 15/12/2016. As such, I do not find any perversity or illegality in the impugned order warranting interference under Article 227 of the Constitution

of India.

6. The writ petition deserves to be and is accordingly dismissed. No order as to cost(s).

7. A copy of the order be sent to the concerned Courts below by e-mail/fax for information and necessary action.