

(2018) 08 CHH CK 0216

Chhattisgarh High Court

Case No: Writ Petition (227) No. 692 Of 2018

Premlal Yadav

APPELLANT

Vs

Urmila Bai Sahu And Ors

RESPONDENT

Date of Decision: Aug. 21, 2018

Acts Referred:

- Code Of Civil Procedure 1908 - Order 9 Rule 13, Order 21 Rule 26

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: T. K. Jha, Raj Awasthi

Final Decision: Disposed Of

Judgement

Sanjay K. Agrawal, J

1. This writ petition is directed against the order dated 09.07.2018 (Annexure - P/1) whereby the application filed by the petitioner under Order 21

Rule 26 of C.P.C. has been rejected by the Claims Tribunal.

2. I have heard learned counsel for the petitioner and respondent No. 3.

3. It appears from the record that in the claim petition filed by Urmila Bai, (applicant / respondent No. 1 herein) and others, the learned Claims

Tribunal allowed the claim petition on 04.02.2005 ex-parte and awarded an amount of Rs. 1,97,500/- to the applicants. The said amount has been

deposited by the Insurance Company but it is a case of Insurance Company that the amount has to be paid by the owner (petitioner herein) and driver

(respondent No. 4 herein) and it has to be recovered from the owner and driver for which the Insurance Company has filed execution case for

recovery of the said amount from the owner and driver of the offending vehicle in which the impugned order for direction to take coercive steps for

recovery of amount has been passed. Since, the application filed by the petitioner under Order 9 Rule 13 of C.P.C. for setting aside the ex-parte order

is pending consideration before Claims Tribunal since 04.05.2018, therefore, it would be expedient to stay the execution proceedings till the application

under Order 9 Rule 13 is finally decided. The Claims Tribunal is directed to decide the application under Order 9 Rule 13 within a period of two

months and for the period of two months the recovery proceedings shall remain stayed.

4. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).