
(2012) 05 JH CK 0105
In the Jharkhand High Court
Case No : C.W.J.C. No. 1863 of 1996 (R)

Bimal Kumar Dey and Others	Vs	APPELLANT
The Chairman, Hindustan Copper Ltd., Kolkata and Others		RESPONDENT

Date of Decision : 09-05-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 10A

Citation : (2012) 4 JCR 164

Hon'ble Judges : Prakash Tatia, C.J.; Aparesh Kumar Singh, J

Bench : Division Bench

Advocate : M.M. Pal, M. Palit and Leena Mukherjee, for the Appellant; P.K. Bhowmik R. Krishna and Amit Sinha, for the Respondent

Judgement

1. I.A. No. 1635 of 2012 has been submitted by applicant under purported authority of the added respondents, who are added as party respondent by virtue of order dated 19th February, 1997 and this application has been supported by one, Manoranjan Chhetri S/o Late Kul Bahadur Chhetri, who according to learned counsel for the applicant is respondent No. 83. By this Interlocutory Application, the respondent No. 83 has informed this Court that some of the respondents, namely, (i) Banish Tudu, (ii) Palu Ram Hansda. (iii) Vikram Singh, (iv) Sukla Manjhi, (v) Gopal Chandra Murmu, (vi) Ratu Tudu (vii) Burdi Nath Hansda and (viii) Ranjit Tudu have died on 12.07.1998, 28.11.2010, 9.12.2007, 12.4.2000, 3.06.2010, 18.09.2002, 2.04.2004 and 5.6.2007 respectively. It is also submitted that respondents; Smt. Priya Hembram and Jujhar Manjhi took voluntarily retirement on 1.01.2003 and 21.01.2001 respectively. The said respondent No. 83 has given this information under Order XXII, Rule 10-A of the Civil Procedure Code.

2. It will be appropriate to mention here that against order dated 12th April, 2004 dismissing the writ petition of the petitioners, Review Petition No. 35 of 2004 was preferred, which was allowed on 23rd April, 2012 after hearing learned counsel for the parties and the aforesaid fact was not brought on record by

learned counsels who appeared for the respondents.

3. Be that as it may be, in this writ petition, which has been revived after order dated 23rd April, 2012 passed in Review Petition No. 35 of 2004, the above information has been furnished by one of the respondents.

4. Learned counsel for the writ petitioner submitted that because of subsequent event the issue referred to this Bench for decision on point of law in pursuance of order passed by learned Single Judge can be decided as the death of some of the respondents and taking of voluntary retirement by some of the respondents will not affect the merit of the case and furthermore, the petitioners may succeed after deletion of names of these persons who have died. Learned counsel for the writ petitioner further submitted that the present Interlocutory Application has been submitted only to delay the proceeding and respondent who was party in the writ petition since 1996 deliberately did not inform the Court till 8th May, 2012 about the death of persons who died as back as in the year 1998 to 2007. Taking voluntary retirement by the respondents makes no difference as the parties will remain the parties even after taking voluntary retirement, their services may not be terminated or may be terminated, it depends upon the decision. But so far as deciding the legal point is concerned, that can certainly be decided in view of the fact that matter has been referred by learned Single Judge to Division Bench to answer a question of law. It has been submitted that, therefore, the petitioner seeks permission to delete the names of those respondents, who have died and whose names have been given in paragraph 3 of the Interlocutory Application No. 1635 of 2012.

5. In view of the "request made by learned counsel for the writ petitioner the names of the respondents mentioned in paragraph 3 of the Interlocutory Application No. 1635 of 2012 are deleted from the array of the parties.

6. Interlocutory Application No. 1635 of 2012 is accordingly disposed of. At the request of learned counsel for the respondents, put up this case on 11.05.2012 at 2.15 p.m. at the top of supplementary cause list.