

(2024) 12 CHH CK 1220
In the Chhattisgarh High Court
Case No : WP227 No. 849 Of 2023

Ramkhelwan

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 10-12-2024

Acts Referred:

Code of Civil Procedure, 1908 — Order 1 Rule 10

Citation : (2024) 12 CHH CK 1220

Hon'ble Judges : Deepak Kumar Tiwari, J

Bench : Single Bench

Advocate : Renu Kochar, Pragya Shrivastava

Final Decision : Dismissed

Judgement

Deepak Kumar Tiwari, J

1. This writ petition has been filed assailing the order dated 25.7.2023 passed by the 6th Additional District Judge, Bilaspur in Civil Suit No.48-A/2022 whereby the application preferred by the proposed intervenor under Order 1 Rule 10 of the CPC claiming himself to be the grandson of late Jitendra Nath Banerjee, who allegedly executed a Will in favour of petitioner No.1 and claiming title through the said registered Will, was allowed.

2. Learned counsel for the petitioners would submit that the trial Court has erred in allowing the aforesaid application. The petitioners have only challenged the order whereby the revenue authority has recorded the name of the State Government on the subject matter of the property. For adjudication of the issue involved in the present matter, the proposed defendant is not a necessary party. She would further submit that the other dispute between the proposed defendant namely, Ravi Banerjee and the petitioner is pending regarding the said questioned Will. Therefore, the impugned order is not sustainable, which may be set aside.

3. I have heard learned counsel for the petitioners at length and perused the

documents annexed with the writ petition.

4. It is pertinent to mention that though the order has been passed in favour of the proposed defendant namely, Ravi Banerjee, but the said person has not been impleaded as party in the present writ petition.

5. Taking into consideration the fact that the proposed defendant has allegedly questioned that the said Jitendra Nath Banerjee has never executed a Will in favour of the present petitioners and he is having interest in the subject property, though the name of the State Government has been recorded, which has been challenged by the petitioners, and considering the issue involved in the present writ petition, this Court is of the opinion that the proposed defendant is a necessary party to enable the Court to completely, effectively and adequately adjudicate upon the issue in the suit and the order passed by the trial Court is just and proper.

6. There is no illegality or infirmity in the impugned order passed by the trial Court. The Writ Petition being devoid of any substance deserves to be and is hereby dismissed.

7. It is made clear that this Court has not expressed any opinion on the merits of the case and the concerned Court shall decide the issue strictly in accordance with law, on its own merits.