



HIGH COURT OF CHHATTISGARH AT BILASPUR

FA No. 139 of 2004

SMT.ANJANA KHAKHA

versus

SAIHIN XALXO (Died and Deleted) Through LRs.

Order on Board

19/11/2025	Mr. Goutam Khetrapal and Ms. Shivangi Agrawal, Advocates for the appellant. Mr. Hemant Gupta, Advocate for proposed respondent No. 3. Heard on I.A. No 01/2025, application under Order 1 Rule 10 of CPC. Mr. Hemant Gupta, learned counsel appearing for proposed respondent No. 3 would submit that Deepshikha Xaxa is adopted daughter of late Manohar Xalxo as she was adopted on 20.06.1982 and adoption deed was registered on 21.03.1997. He would contend that Deepshikha was staying in her matrimonial house, therefore, she could not move an application for impleadment at earlier point of time. He would submit that

Deepshikha was impleaded as defendant by the appellant herein in Civil Suit No. 5A/2003 wherein specific pleading was made to the effect that Deepshikha is adopted daughter of late Manohar Xalxo. He would further submit that in other suits too Deepshikha was impleaded as party on the ground that she is adopted daughter of late Manohar Xalxo. He would contend that the right of Deepshikha would be affected, if she is not granted opportunity to defend this case. He would pray to allow this application.

On the other hand, Mr. Goutam Khetrapal and Ms. Shivangi Agrawal, learned counsel appearing for the appellant would oppose. They would submit that Deepshikha proposed respondent No. 3, failed to move application under Order 1 Rule 10 of CPC before the learned trial Court and at belated stage this application has been moved. They would submit that proposed respondent No. 3 has not explained sufficient reasons with regard to delay in filing the application under Order 1 Rule 10 of CPC. They would contend that proposed respondent No. 3 has no right over the suit property. It is also submitted that civil suit was filed by late Manohar Xalxo wherein he specifically pleaded that he was issueless. They would submit that the application deserves to be dismissed.

I have heard learned counsel for the parties and perused

the documents annexed alongwith application moved under Order 1 Rule 10 of CPC.

Perusal of the Civil Suit No. 5A/2003 filed by the appellant herein would make it clear that Deepshikha proposed respondent No. 3 was impleaded as defendant. There was specific pleading with regard to her adoption. The original plaintiff late Manohar Xalxo pleaded in the plaint that he was issueless, thus it can be held that biologically he was issueless, but with regard to adoption, there is no averment and there was no occasion for the original plaintiff to plead the fact with regard to adoption.

Considering the documents placed by proposed respondent No. 3 alongwith an application moved under Order 1 Rule 10 of CPC, reasons assigned in the application, I am inclined to allow I.A. No. 01/2025.

Accordingly, I.A. No. 01/2025 is hereby allowed.

Let Deepshikha be impleaded as respondent No. 3 within a period of 03 days by the appellant herein.

Call this matter in the next week for final disposal at motion stage.

Sd/-
(Rakesh Mohan Pandey)
Judge