

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 892 of 2013

1. Baijnath S/o Jairam Kanwar Aged About 28 Years Occupation - Agriculture, R/o Village Lamdarha, Tah & Ps Tamnar, Civil & Revenue Distt Raigarh, CG

**---- Petitioner
Plaintiff**

Versus

1. Vishram S/o Jairam Kanwar Aged About 35 Years R/o Village Banjikhola, Ps Tamnar, Civil & Revenue Distt Raigarh, CG
2. Gapdarai S/o Ghasiya Kanwar Aged About 45 Years
3. Tiharu S/o Rudhiya Kanwar Aged About 45 Years
4. Ganeshi Bai Wd/o Baliram Kanwar Aged About 45 Years
5. Naresh S/o Balram Kanwar Aged About 28 Years
6. Sukhram S/o Baliram Aged About 31 Years
Respondents No.2 to 6 R/o Village Lamdarha, Tahsil & P.S. - Tamnar, Civil & Revenue District Raigarh (CG)
7. Musri W/o Jaggu Kanwar (S/o Ruchiya Kanwar) Aged About 45 Years
Occupation - House work, R/o Village Mudhinar, Tah & Ps Tamnar, Civil & Revenue Distt Raigarh, CG
8. Samarmoti Wd/o Jagatram Kanwar (S/o Ruchiya Kanwar), Aged About 32 Years
Occupation - House work, R/o Village Kotrimal, Tah & Ps Gharghora, Civil & Revenue Distt Raigarh, CG
9. State Of Chhattisgarh Through The Collector, Raigarh, Distt Raigarh, CG

---- Respondent

For Petitioner : Shri Awadh Tripathi, Advocate.

For Respondent No.1 : None

For Respondents No.2 to 6 : Shri Manoj Sinha, Advocate

For Respondent No.9/State : Shri Ajit Singh, P.L.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

27/08/2015

In a suit filed by the petitioner/plaintiff for declaration of title, possession and partition, the plaintiff examined one Raghunath as Witness No.3. It appears that during his cross-examination the said witness admitted certain suggestions put to him on behalf of defendant

No.1. As the witness had gone against the plaintiff, he made a request before the Court for declaring him hostile and sought permission for cross-examining him. Thereafter, on 28.6.2013 a formal application was filed by the plaintiff in this regard, however, by the impugned order dated 6.11.2013 the said application as filed by the plaintiff was rejected by the Court. It is this order which has been assailed by the petitioner in this petition.

2. Counsel for the petitioner submits that plaintiff's witness Raghunath has turned hostile as he has joined hands with the defendants and therefore, he ought to have been declared hostile witness and the plaintiff should have been permitted to re-examine him. It has been further argued that in the affidavit filed by the said witness Raghunath he has misled the plaintiff and therefore, appropriate action is required to be taken against this witness.

3. Supporting the impugned order it has been argued by Shri Sinha, duly assisted by Shri Ajit Singh, that if certain suggestions have been accepted by the witness, it does not mean that he has joined hands with the defendants. It has been argued that if such witness is permitted to be re-examined, then there would be no end to the proceedings and every time whenever the witness deposes against his party, application would be filed for re-examining such witness.

4. Heard counsel for the parties and perused the material available on record.

5. From the record it appears that during cross-examination plaintiff's witness Raghunath accepted certain suggestions given by the

defendant. If in cross-examination he has accepted certain suggestions given by the defendant, it does not give any right to the plaintiff to re-examine the said witness. In the facts and circumstances of the case, if re-examination of this witness is permitted, there would be no end to the litigation and every now and then similar applications would be filed by either party. Thus, considering the facts and circumstances of the case, I find no illegality in the order impugned warranting interference by this Court in exercise of power under Article 227 of the Constitution of India. The petition being without substance is liable to be dismissed and is, accordingly, dismissed.

Sd/
(Pritinker Diwaker)
Judge