

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 175 of 2015

1. Radheshyam S/o Arjun Sahu, aged About 45 years DEFENDANT No.1
2. Mahrajiya D/o Arjun Sahu, aged About 40 Years DEFENDANT No.2

Both are by caste Teli R/o Village Tenduva, Awrapara, Police Station :
Patna, Tahsil : Baikunthpur, Revenue and Civil District : Korea (C.G.)

---- Petitioners

Versus

1. Vishesh Kumar Sahu S/o Sobhnath Sahu, aged About 26 Years Occupation : Agriculture, R/o Village Tenduva, Awrapara, Police Station : Patna, Tahsil : Baikunthpur, Revenue and Civil District: Korea (C.G.) PLAINTIFF
2. State Of Chhattisgarh Through : Collector, Korea, District Korea (C.G.) DEFENDANT NO.3

---- Respondents

For Petitioners	:	Shri Pushpendra Kumar Patel, Advocate
For Respondent No.2		Shri Ashutosh Pandey, Panel Lawyer for State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

11/03/2015

1. Petitioners/defendants are aggrieved by the order passed by the trial Court whereby their application under Order 16 Rule 2 of Code of Civil Procedure to summon the Halka Patwari as a witness has been rejected by the trial Court.
2. Plaintiffs have instituted a suit for specific performance of contract. The impugned order would indicate that both the parties have already led their evidence and the matter is fixed for final arguments. At the time of submission of list of witnesses the petitioners did not submit name of the said Patwari as a witness to be examined on their behalf. When the other witnesses were examined by the plaintiffs, the petitioners did not desire to examine the Patwari. In this situation, the trial Court has rightly observed that the petitioner wants to improve

their case after disclosure of all material facts by the plaintiffs' witnesses.

3. Considering the law laid-down by the Supreme Court in the matter of ***Surya Dev Rai Vs. Ram Chander Rai and Others*** {(2003) 6 SCC 675}; ***Shalini Shyam Shetty and Another Vs. Rajendra Shankar Patil*** {(2010) 8 SCC 329} and ***Sameer Suresh Gupta through pa holder Vs. Rahul Kumar Agarwal*** {(2013) 9 SCC 374}, reiterating the scope of interference under Article 227 of the Constitution of India, the present is not a fit case for interference.

4. Accordingly, writ petition is dismissed.

JUDGE