

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP227 No. 230 of 2015**

- Vikas Gurudwan S/o Shri R.C. Gurudwan Aged About 37 Years  
R/o D.P. Vipra College Road, Near Chantidih Petrole Pump,  
Ashok Nagar, Seepat Road, Sarkanda, Bilaspur Civil & Revenue  
Distt. Bilaspur Chhattisgarh

**---- Petitioner**

**Versus**

- Laxmi Narayan Dhruva S/o Late Jaitram Dhruva Aged About 50  
Years R/o Basant Vihar S.E.C.L. Colony Bilaspur, Tah And Distt.  
Bilaspur Chhattisgarh

Presently R/o E.C.L. Colony, Asansol (West Bengal)

**---- Respondent**

---

For Petitioner

Mr. Ravindra Agarwal, Advocate

For Respondent/State

Mr. Vivek Shrivastava, Advocate

---

**Hon'ble Shri Justice Prashant Kumar Mishra**  
**Order On Board**

**26/7/2016**

1. Heard.
2. This petition under Article 227 of the Constitution of India is preferred by the defendant assailing the order passed by the trial Court, whereby, his application under Section 65-B of the Evidence Act for submission of electronic evidence, has been rejected.
3. The plaintiff/respondent has filed the instant suit for petitioner's eviction on the ground of bonafide need. The petitioner/defendant has filed his written statement and denied that the plaintiff bonafidely needs the premises for his own

occupation. It is further averred that the plaintiff resides at Asansol and wants to dispose of his properties located at Bilaspur, therefore, he made an offer to the defendant for sale of the suit house and the said offer made by the plaintiff has been recorded in a compact disc by using pen camera.

4. After closure of the plaintiff's evidence, the defendant has moved the subject application seeking permission to lead the electronic evidence to prove the recording made in the compact disc through pen camera.
5. The trial Court has rejected the application on the ground that the present not being a suit for specific performance, the proof of compact disc or the conversation offering sale of the house to the defendant is not germane for the decision of the Court.
6. In the considered opinion of this Court, the trial Court is fully justified in observing that the present not being a suit for specific performance of agreement, any negotiation for sale, may not decide the outcome of the suit one way or the other. Even otherwise, while moving the application under Section 65 B of the Evidence Act, the petitioner has not complied with the provision contained in sub-section (2) thereof, therefore, otherwise also, the application cannot be allowed.
7. Applying its earlier decision in **Surya Dev Rai Vs. Ram Chander Rai**<sup>1</sup> and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**<sup>2</sup>, the Supreme Court in the matter of **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal**<sup>3</sup> has held that supervisory

---

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

8. For the foregoing, this Court does not find any such error in the impugned order which would require interference of this Court under Article 227 of the Constitution of India. The petition deserves to be and is hereby dismissed. Sd/-

Judge

**(Prashant Kumar Mishra)**

Shyna