

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 969 of 2015**

- Raj Kumar Modi S/o Shanti Kumar Jain, Aged About 57 Years Prop. Modi Traders, R/o Palace Road, Jagdalpur, Distt. Bastar, (Chhattisgarh)..... (Defendant)

---- Petitioner

Versus

- Ambuja Cement Eastern Limited Village Rawat, Tahsil Baloda Bazaar, Through Anup Jaiswal, Law Officer, Ambuja Cement Eastern Limited, Baloda Bazaar, Distt. Baloda Bazaar, (Chhattisgarh).....(Plaintiff)

---- Respondent

For Petitioner	:	Dr. N.K. Shukla, Sr. Adv. with Ms. Astha Shukla, Advocate
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Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****15/06/2016**

1. In a suit filed in the year 2002 for recovery of the price of cement supplied by the plaintiff/respondent, the plaintiff closed his evidence in the year 2008. The suit was posted for examination of defendant's witnesses for the first time on 24-11-08, however, despite repeated opportunities the petitioner/defendant has not been able to examine himself.
2. The petitioner has assailed the legality and validity of three different orders passed by the trial Court. The first order under challenge was passed on 20-4-15 rejecting petitioner's application under Section 151 CPC for allowing the defendant to examine other witnesses in addition to the defendant himself. In the second impugned order dated 20-10-15, the trial Court rejected petitioner's application under Order 8 Rule 1 CPC seeking leave of the court to file some additional documents in form of demand draft by which the defendant has allegedly paid the price of cement supplied by the plaintiff company to him. This application has been rejected on the ground that earlier also similar application for summoning record of State Bank of India

and to summon a competent officer of the Bank to prove the demand draft was rejected on 20-4-15, therefore, the same prayer is not open for consideration. By the third impugned order dated 5-11-15, the trial Court rejected petitioner's prayer for adjournment and closed his evidence and thereafter the suit has been fixed for final arguments.

3. It is argued that if the defendant is not permitted to examine himself and the Bank officers to prove preparation of demand draft through which payments have been made to the plaintiff, he shall suffer irreparable loss and may not be able to prove the defence raised in the written statement.
4. Having perused the documents annexed with the writ petition, it appears 'n' number of opportunities were granted to the petitioner, yet he failed to examine himself, however, in view of the fact that the petitioner/defendant desires to examine himself and is ready to pay cost to the plaintiff. By way of one more indulgence, the petitioner is permitted to examine himself in the interest of justice on petitioner's paying cost of Rs.5000/- to be deposited with the High Court Middle Income Group Legal Aid Society within a period of 15 days from today. The trial Court shall fix a date for petitioner's examination/cross-examination and thereafter shall proceed to decide the suit within an outer limit of three months.
5. It is made clear, the remaining relief prayed by the petitioner for summoning the record of the Bank and examining the Bank officials has not been allowed.
6. Accordingly, the writ petition stands disposed of.

Sd/-

Judge
Prashant Kumar Mishra