

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 431 of 2016**

1. Pritam Singh Gabel S/o Late Prem Singh Gabel, Aged About 54 Years R/o Transport Nagar, Sakti, Tahsil Sakti, District Janjgir Champa, (Chhattisgarh)
2. Trilok Chand Jaiswal S/o Late Ganpatlal Jaiswal, Aged About 49 Years Businessman, R/o Sakti Ward No.9, Tahsil Sakti, District Janjgir Champa, (Chhattisgarh)

---- Petitioners**Versus**

1. Shyam Sundar Agrawal S/o Late Mangat Ram Agrawal, Aged About 55 Years Businessman, .
2. Radheshyam Agrawal, S/o Late Mangat Ram Agrawal, Aged About 62 Years Businessman, .
3. Kailash Chand Agrawal, S/o Late Mangat Ram Agrawal, Aged About 50 Years Businessman, .
4. Gaytri Devi, W/o Late Om Prakash Agrawal, Aged About 63 Years .

All are R/o Hatari Chowk, Sakti, Ward No.8, Thasil Sakti, District Janjgir-Champa (C.G.)

(Plaintiffs)

5. Durga Prasad Upadhyay, S/o Late Baboo Lal Upadhyay, Aged About 43 Years R/o Ward No. 9, Sakti, Tahsil Sakti, District Janjgir Champa, (Chhattisgarh).....(Defendant No. 1)
6. The State Of Chhattisgarh, Through The Collector, Janjgir, District Janjgir Champa, (Chhattisgarh).....(Defendant No. 4)

---- Respondents

For Petitioners	:	Shri H.B. Agrawal, Sr. Adv. with Ms. NK Kashyap, Advocate
For Respondent-State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****20/07/2016**

1. The petitioners/defendants No.2 & 3 have preferred this writ petition under Article 227 of the Constitution of India assailing the legality and validity of the orders passed by the trial Court on 11-1-16 and 25-4-16, whereby the trial Court has allowed the plaintiffs' application under Order 7 Rule 14 and under Order 18 Rule 17 CPC respectively.
2. It is argued that the documents introduced with the application under Order 7 Rule 14 are not relevant for deciding the controversy involved in the suit, therefore, the application should not have been allowed and the plaintiffs should not have been permitted to re-examine himself under Order 18 Rule 17 CPC. It is also argued that in any case, the documents have been introduced by the plaintiffs to fill lacuna in the case.
3. A reading of the impugned order dated 11-1-16 would indicate that the plaintiffs have sought leave of the Court to submit certified copies of the documents of the Court of Tehsildar, Sakti, pertaining to land bearing Khasra No.815/47 which is adjacent to the suit land. The prayer has been allowed by the trial Court on the reasoning that the documents would assist the court in adjudicating the subject matter of the suit.
4. Once the leave for submission of documents have been allowed, the trial Court has subsequently allowed the plaintiffs to re-examine himself to prove the documents.
5. In the considered opinion of this Court, once the trial Court has reached to the satisfaction that the documents would assist it in adjudication of the suit, this Court under Article 227 of the Constitution of India would not sit in appeal against the judicial discretion exercised by the trial Court in the procedural matters. It also appears that the petitioners are not going to be prejudiced by introduction of the documents or by re-examination of the

plaintiffs because some of the defendants' witnesses are yet to be examined and if the defendants so desire, they may also move application for their re-examination and may submit documents in rebuttal of the documents introduced by the plaintiffs.

6. Accordingly, the writ petition stands dismissed, subject to above observation.

Sd/-

Judge
Prashant Kumar Mishra

Ashu