

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.1092 of 2015**

1. Chhattisgarh State Power Distribution Company Ltd. Through Chief Engineer, Chhattisgarh State Power Distribution Company Ltd. Bilaspur Chhattisgarh.....Defendant
2. Chief Engineer (B/ R) Chhattisgarh State Power Distribution Company Ltd. Bilaspur Chhattisgarh.....Defendant
3. Superintending Engineer (O & M) Circle, Chhattisgarh State Power Distribution Company Ltd. Bilaspur Chhattisgarh.....Defendant
4. Executive Engineer (Meter/ Inspection) (M R T) Division, Chhattisgarh State Power Distribution Company Ltd. Bilaspur Chhattisgarh.....Defendant

---- Petitioners

Versus

- M/s Gumla Floor Mill Limited New Chandela Colony Ageya Nagar Bilaspur Chhattisgarh Through Director (Sanchalak) Jaiprakash Lal Age About 50 Years S/o Kanhaiya Lal Sahu Bilaspur Chhattisgarh.....Plaintiff

---- Respondent

Shri Abhishek Sinha and Shri Ghanshyam Patel, counsel for the petitioners.
Respondent not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****05.01.2016.**

At the outset, it is submitted on behalf of the petitioners that the Court below has fixed the date for final arguments on 08.01.2016 and the petitioners are intend to examine their only witness AK Shrivastava, the then Asst. Engineer presently Superintending Engineer in the matter. Learned counsel for the petitioners prays that if opportunity is given they will present Shri AK Shrivastava for his examination before the Court below on 08.01.2016. Learned counsel further submits that

this will not cause any prejudice to other party as the witnesses were already present before the Court below on 04.11.2015 and his statement along with other two eye witnesses were not recorded as the Court below was busy in recording evidence in some other case which shows the bonafide of the petitioner. Name of the witnesses is already on the record. On other occasions also the witnesses were present but their statement was not recorded. Learned counsel for the petitioners prays that on larger interest of justice, opportunity may be given as this witnesses is an important witness, a member of one of the raid party, and his examination will helpful for the proper adjudication of the matter. Learned counsel submits that for the above prayer notice to the respondent is not required. The petition may be disposed of by granting opportunity for the examination of their witnesses AK Shrivastava on 08.01.2016.

2. To appreciate the arguments advanced at the outset, order sheet filed by the petitioners and the affidavit of the witnesses under Order 18 Rule 4 of the Code of Civil Procedure, 1908 (for short 'the Code') are perused.

3. On perusal of the ordersheet dated 04.11.2015 it is apparent that witness AK Shrivastava was present on that date, but as the Court was busy in recording in some other case, his statement could not be recorded by the Court below and the matter was adjourned. His examination in chief is already submitted before the Court below as required under Order 18 Rule 4 of the Code on 17.4.2015. After perusal of the contents of the affidavit under Order 18 Rule 4 of the Code, it appears that this witnesses is a material witness, his examination will help the Court to adjudicate the matter as required by

the law. After perusal of the entire material, this Court is of the view that an opportunity be given in the larger interest of justice and for this no any notice to the respondent is required.

4. Consequently, the instant petition is hereby disposed of. The petitioners are directed to present their witness AK Shrivastava before the Court below on 08.01.2016. The trial Court is directed to first record his statement on 08.01.2016 and thereafter after recording his evidence dispose of the matter as per law. Needless to mention, if the petitioners failed to present their witnesses before the court below on 08.01.2016 at 11.00 am, the trial Court shall proceed without recording his evidence as already fixed. The petitioner may file copy of the order sheet before the Court below for compliance,

5. The instant petition is disposed of. No order as to cost.

6. Certified copy today itself.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE