

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 574 of 2016

1. Dinesh Kumar S/o Late Shri Mahesh Chand Dubey, Aged About 65 Years, Caste Bramhan, Occupation Retired From Service
2. Ashok Kumar, S/o Late Shri Mahesh Chand Dubey, Aged About 58 Years Caste Bramhan, Occupation Service
3. Pradeep Kumar, S/o Late Shri Mahesh Chand Dubey, Aged About 51 Years Caste Bramhan, Occupation Business
4. Hemant Kumar, S/o Late Shri Mahesh Chand Dubey, Aged About 51 Years Caste Bramhan, Occupation Business

All the petitioners are resident at Village Kokdi, Tahsil Baloda Bazar, District Raipur, Chhattisgarh. Now Present District Baloda Bazar Bhatapara (Chhattisgarh),

At Present Resident Of D. K. 1-254 Scheme No. 74 C Indore (Madhya Pradesh)

Through Power of Attorney Holder

5. Prabhat S/o Late Shri Mahesh Chand Dubey, Aged About 62 Years Caste Bramhan, Occupation Retired Teacher, R/o Village Kokdi, Tahsil Baloda Bazar, District Raipur, Chhattisgarh.

At Present R/o Krishna Vihar Colony, Baloda Bazar Bhatapara (Chhattisgarh)

The Prabhat Kumar is the Power Of Attorney Holder of the Petitioners.

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Versus

1. Paresh S/o Gajanand Verma, Aged About 35 Years Occupation Shopper, Latest Corner, Gandhi Chowk, Baloda Bazar, District Raipur (Chhattisgarh), Now Present District Baloda Bazar Bhatapara (Chhattisgarh)
2. Prakash Kumar, S/o Tripurari Prasad Tiwari, Aged About 59 Years Caste Bramhan, R/o Village Kokdi, Tahsil Baloda Bazar, District Raipur (Chhattisgarh) Now Present District Baloda Bazar Bhatapara (Chhattisgarh)
3. State Of Chhattisgarh, Through Collector, Raipur (Chhattisgarh) Now Present District Baloda Bazar Bhatapara (Chhattisgarh)

---- Respondents

For Petitioners	Shri Arvind Sinha, Advocate
For Respondent-State	Shri Shashank Thakur, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

03/10/2016

1. By the impugned order, the trial Court has closed plaintiffs' evidence on the ground that the suit is pending for about 5 years and the plaintiffs are not vigilant or prompt in getting their witnesses examined.
2. It has been observed by the trial Court that whenever the suit is posted for examining the plaintiffs' witnesses, the plaintiffs move some interim application to avoid examination of the witnesses. This has happened atleast thrice. In addition, on one occasion the plaintiffs have moved application for adjournment under Order 17 Rule 1 CPC.
3. Referring to the order sheet recorded on 08.03.2016 and 23.04.2016, it is argued that on both these dates, the witnesses were present, however, on the first occasion, the matter was already adjourned and on the second occasion, the Presiding Officer was on leave, therefore, it is not a case where the plaintiffs' witnesses remained absent on all dates of hearing.
4. Having considered the material placed before this Court, it appears, ends of justice would be served if the plaintiffs are allowed one opportunity to present their witnesses for

examination, subject however to payment of cost to compensate the other party.

5. Accordingly, the writ petition is disposed of with a direction that on plaintiffs' paying cost of Rs.10,000/- to the contesting defendants within a period of 3 weeks from today, the trial Court shall fix a date for examination of plaintiffs' witnesses. Such examination shall take place within an outer limit of 8 weeks. The plaintiffs shall not be allowed to produce their witnesses after expiry of period of 8 weeks from today.
6. The trial Court shall also expedite the hearing of the suit.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala