

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 709 of 2015**

Udya Sahkari Grih Nirman Sanstha Maryadit, Through its Vice President Shri Gurudev Singh Waliya, S/o Late Janrail Singh, aged about 68 years, R/o Udaya Nagar, Tatibandh, P.S.-Amanaka, Tahsil and District – Raipur, Civil and Revenue District – Raipur (C.G.)

.....(Plaintiff)

---- Petitioner**Versus**

1. Sakharam Sahu S/o Shri Vishnu Ram Sahu, aged about 70 years, R/o Tatibandh, Raipur, Tehsil and District Raipur, (Chhattisgarh)
2. State Of Chhattisgarh, Through Collector, Raipur, Distt. Raipur, (Chhattisgarh)
3. Sunil Kumar Vaidy, S/o Shri B.S.Vaidy, aged about 45 years (C.G.), R/o Near Ganesh Mandir, Budhopara, Raipur (C.G.)
4. Prafull Kumar Vaidy, S/o Shri G.C. Vaidya, aged about 50 years, R/o Sadar Bazar Mungeli, District Bilaspur

..... Defendants

---- Respondents

For Petitioner	: Shri A.K. Prasad, Advocate.
For Respondent No. 2	: Smt. Astha Shukla, PL
For Respondent No. 3	: Shri Anand Shukla, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****10/11/2016**

Heard.

(1) An application filed under Order 26 Rule 4 CPC for recording evidence on commission is rejected by the trial and thereafter opportunity to lead evidence has been closed.

(2) Learned counsel appearing for the petitioner would submit that the application filed under Order 26 Rule 4 of the CPC for recording evidence on commission is withdrawn; and the next order by which application under

Order 17 Rule 1 of the CPC for adjournment has been dismissed and the opportunity to adduce plaintiff's evidence has already been closed by the trial Court, which is liable to be set aside.

(3) Against which, this instant writ petition has been filed.

(4) After hearing learned counsel appearing for the parties and looking to the fact that if the evidence of plaintiff witnesses will not be recorded, it will cause prejudice to the petitioner, therefore, the impugned order is set aside and the plaintiff is granted opportunity to lead evidence subject to payment of cost of Rs.5,000/- to defendant No. 3 within a period of 15 days from the date of appearance before the trial Court. The defendant No. 3 is also allowed to adduce his evidence.

(5) Accordingly, the writ petition is allowed to the extent indicated hereinabove.

(6) The parties are directed to appear before the trial Court on **28.11.2016.**

Sd/-

(Sanjay Kumar Agrawal)

Judge

D/-