

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.864 of 2015

Mohd. Akmal Rizvi, S/o Haji Mohammed Alanoor, aged about 45 years, R/o Indira Ward, Near Head Post Office, Jagdalpur (C.G.)  
(Plaintiff)  
---- Petitioner

Versus

1. Mamta Yadav, Wd/o Late Rakesh Kumar Yadav, aged about 52 years,
2. Aanchal Yadav, D/o Late Rakesh Kumar Yadav, aged about 25 years,
3. Siddharth Yadav, S/o Late Rakesh Kumar Yadav, aged about 23 years,

All R/o Vivekanand Nagar, Street No.4, Dakbangla Ward, Dhamtari, Tahsil and District Dhamtari (C.G.)  
(Defendants)  
---- Respondents

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| For Petitioner:      | Mr. Adil Minhaj, Advocate.             |
| For Respondent No.1: | Mr. Vivek Kumar Shrivastava, Advocate. |

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Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/11/2016

1. By the impugned order dated 23-9-2015, the trial Court has closed the opportunity of the plaintiff to lead further evidence.
2. Learned counsel for the petitioner / plaintiff would submit that two witnesses were examined on 23-9-2015 and right of the plaintiff to lead evidence has unnecessarily been closed and opportunity to lead further evidence has been denied.
3. On the other hand, learned counsel for the respondents / defendants would submit that the plaintiff is unnecessarily

harassing the defendants, as the plaintiff has not paid the expenses for witnesses and is protecting the trial.

4. The fact remains that the suit was filed by the plaintiff on 14-3-2014. The suit was fixed for evidence for the first time on 2-2-2015 but only three witnesses have been examined and no expenses of witnesses were paid for 23-4-2015 therefore, the trial Court has closed opportunity of hearing. Since on 23-9-2015, two witnesses were present and they were examined and therefore I deem it appropriate to grant one more opportunity to the plaintiff to examine his witnesses.
5. Therefore, the impugned order is set aside in part and the petitioner / plaintiff is directed to keep all his witnesses except official witnesses present before the trial Court on 5-12-2016. The plaintiff shall examine all his witnesses on that day and pay process fee and expenses for examination of remaining official witnesses for their examination on 3-1-2017. It shall be the responsibility of the plaintiff to get the notices served to official witnesses for 3-1-2017 and the witnesses will be examined accordingly. If the official witnesses do not turn-up on the date of hearing (3-1-2017) then the trial Court will adjourn the matter for one week only enabling them to appear for their examination. If on 5-12-2016, the plaintiff witnesses who are listed in the list are not kept present by the plaintiff, opportunity shall stand closed.
6. The writ petition is allowed in above terms subject to payment of cost of Rs.7,500/- to the defendants. If the cost is not paid on 5-12-2016, the plaintiff's right to lead evidence shall stand closed. No

order as to costs.

7. It is made clear that the petitioner / plaintiff as well the defendants / respondents will co-operate in the trial.

Sd/-  
(Sanjay K. Agrawal)  
Judge