

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No.484 of 2017

Purushottam Lal Sharma, aged about 80 years, S/o late Onkarlal Sharma, 'Prem Jyoti', Pt. Bhagwati Charan Shukla Ward, Byron Bazaar, Raipur.

---- **Petitioner**

Versus

1. Sanjay Kumar Sharma, aged about 56 years, S/o late Shri Onkarlal Sharma, H.No.44/377, Vivekanand Ward, Budhapara Ward, Sadar Bazaar Road, Raipur.
2. Dilip Kumar Sharma, aged about 59 years, S/o late Shri Onkarlal Sharma, R/o 'Raat Din' Medical Stores, Vivekanand Ward, Budhapara Ward, Sadar Bazaar Road, Raipur.
3. Yogesh Kumar Sharma, S/o late Onkarlal Sharma, R/o 'Raat Din' Medical Stores, Vivekanand Ward, Budhapara Ward, Sadar Bazaar Road, Raipur.

--- **Respondents**

For Petitioner : Mr. Raja Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

19/07/2017

(1) The petitioner/plaintiff's application under Order 26 Rule 4 read with Section 151 of CPC has been rejected by the trial Court by its impugned order dated 19.04.2017 on the ground that the petitioner/plaintiff has not filed medical certificate of witness Smt. Uttaradevi Kaushik.

(2) Learned counsel appearing for the petitioner/plaintiff would submit that the petitioner's witness Smt. Uttaradevi Kaushik, who is aged about 85 years old and her cross-examination is very necessary for proper adjudication of the suit. He would further submit that the petitioner is ready and willingness to pay the entire cost incurred in examination of

witness on commission.

(3) I have heard learned counsel for the petitioner and perused the impugned order.

(4) After hearing learned counsel for the petitioner and taking into consideration the age of witness, place of her stay and other relevant circumstances, I deem it appropriate to allow the petitioner's application under Order 26 Rule 4 read with Section 151 of CPC. Consequently, the impugned order is set-aside. It is directed that the petitioner shall bear the entire expenses including travelling, lodging and boarding expenses to be incurred in examination of witness Smt. Uttaradevi Kaushik on commission. However, the trial Court is directed to expedite the trial of the suit and the defendants are at liberty to move modification application, if they are aggrieved.

(5) With the aforesaid observation, the writ petition stands finally disposed of.

SD/-

(Sanjay K. Agrawal)
Judge

L/-