

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 578 of 2017**

1. Smt. Vimla Sharma, W/o. Late Mahesh Sharma, aged about 60 years,
2. Manish Sharma, S/o. Late Mahesh Sharma, aged about 32 years,
3. Kumari Ritu Sharma, D/o. Late Mahesh Sharma, aged about 30 years, Plaintiffs

All above are R/o. Municipal House No.21/501, Saraswati Niketan, Ramsagarpara, Raipur, District Raipur (C.G.)

---- Petitioners**Versus**

1. Nandkishore Sharma, S/o. Late Laxminarayan Sharma, aged about 57 years, R/o. Kashi Talab, Sadar, Baitul (M.P.)
2. Smt. Sarmista Agrawal, W/o. Dr. Shri Arjunlal Agrawal, aged about 64 years, R/o. A 9/2, Rajeev Nagar, Raipur, Tahsil and District Raipur (C.G.)
3. Harmindar Singh Hora, S/o. Amarjeet Singh Hora, aged about 60 years, R/o. A-1, Jail Road, Sai Nagar, Raipur, District Raipur (C.G.)Defendants

---- Respondents

For Petitioners: Mr. Prasoon Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****30/08/2017**

(1) The petitioner's application filed under Order 7 rule 14(3) of the Code of Civil Procedure (for short "CPC") has been rejected by the trial Court and copy of Will, Accounts bill, sale deed and other documents have refused to be taken on record.

(2) Counsel for the petitioner submits that the trial Court has committed jurisdictional error in rejecting the petitioners' application filed under Order 7 Rule 14 (3) of the Code of Civil Procedure and the aforesaid documents ought to have taken on record . He placed reliance upon the judgment of the Supreme Court in the matter of **Chakreshwari Construction Private Limited Vs. Manohar Lal**¹ in support of his submissions.

(3) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(4) The Supreme Court in the matter of **Chakreshwari Construction Private Limited (supra)** has held as under:-

“16. It is true that there was some delay on the part of the appellant in filing the applications but, in our opinion, the appellant had explained the delay. One cannot dispute that in appropriate cases, the parties are permitted to amend their pleadings at any stage not only during the pendency of the trial but also at the first and second appellate stage with the leave of the court provided the amendment proposed is bona fide, relevant and necessary for deciding the rights of the parties involved in the lis.

17. Similarly, the law also permits the parties to file additional evidence at any stage of the trial [Order 7 Rule 14 (3)] including at the first or/and second appellate stage (Order 41 Rule 27) with the leave of the court provided a case is made out to seek such indulgence.”

(5) After hearing learned counsel appearing for the petitioner, I am of

¹ (2017) 5 SCC 212

the opinion that the aforesaid documents ought to have been taken on record as the trial is at the initial stage subject to payment of cost of Rs.2,500/- to the defendants. Ordered accordingly. However, the respondents are at liberty to file application for modification, if aggrieved by the said order.

(6) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-