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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No.620 of 2017**

1. J.C. Banerjee @ Jagdish Chandra Bandopadhyay, presently aged about 75 years, R/o late K.P. Banerjee, Caste Bangali Brahman, R/o Vivekanand Nagar, Mopka, P.S. Sarkanda, Tahsil & District Bilaspur (CG).
2. Anand Kumar, presently aged about 59 years, S/o Shri Parikshit Kumar, R/o Mopka, C/o Shri J.C. Banerjee, Vivekanand Nagar, Mopka, P.S. Sarkanda, Tahsil & District Bilaspur (CG).
3. Sahkari Karmchari Sahkari Grih Nirman Samiti Maryadit, Registration No.3157, Railway Colony, Present address Mopka, through President Shri J.C. Banerjee, S/o Shri K.P. Banerjee, R/o Vivekanand Nagar, Mopka, P.S. Sarkanda, Tahsil & District Bilaspur (CG).

**---- Petitioners****Versus**

1. Ghanashyam Das Gangwani, presently aged about 74 years, S/o Shri Vadhupal Ji Gangwani, Occupation Advocacy, Caste Sindhi (Hindu), R/o Mainroad, Juna Bilaspur In front of Laxmi Talkies, Bilaspur, P.S. City Kotwali, Bilaspur, Tahsil & District Bilaspur (CG).
2. State of Chhattisgarh, through the Collector, Bilaspur, Tahsil and District Bilaspur (CG).

**--- Respondents**

For Petitioners : Mr. Sourabh Sharma, Advocate  
 For State : Mr. Arvind Dubey, Panel Lawyer

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

**31/08/2017**

(1) Learned counsel appearing for the petitioners would submit that the petitioners' application under Section 65 of the Evidence Act to lead secondary evidence has been rejected by the trial Court vide impugned order dated 02.08.2017, which is unsustainable and bad-in-law. He would further submit that photocopy of documents in question

has already been taken on record vide order dated 11.04.2017 on the condition that they will file certified copy of documents for which, they approached the District Consumer Forum for obtaining the certified copy of document in question. The District Consumer Forum has refused to grant the certified copy of documents and therefore, in the interest of justice, they may be permitted to lead secondary evidence.

**(2)** I have heard learned counsel for the petitioners and perused the impugned order.

**(3)** Since the photocopy of document in question has already been taken on record by the trial Court vide order dated 11.04.2017. In my considered opinion, it would be appropriate to allow the application. Accordingly, the application is allowed and the petitioners/defendants are permitted to lead their secondary evidence of those documents subject to payment of cost of Rs.1,000/- to the plaintiff. However, the plaintiff is at liberty to file an application for modification of the order, if he is aggrieved.

**(4)** Certified copy of Annexure P/6 be returned to the learned counsel for the petitioners after furnishing as attested photocopy thereof.

**(5)** With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost.

Sd/-

**(Sanjay K. Agrawal)**  
Judge

L/-