

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 794 of 2017**

Bhuwan Bhaskar Sande S/o Shri Bhaiya Ram Sande, Aged about 62 years,
R/o Thadgaabakra, P. S. and Tahsil Balauda, District Janjgir-Champa
Chhattisgarh.

---- Petitioner

Versus

Purushottam Patle S/o Shri Gyan Das Patle, Aged about 62 years, R/o
Balauda, Tahsil Balauda, District Janjgir Champa Chhattisgarh.

---- Respondent

For Petitioner : Mr. Pushpendra K. Patel, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/11/17**

1. By the impugned order dated 08.05.2017, the application filed by the petitioner / defendant under Section 65 of the Evidence Act has been rejected by the trial Court as not maintainable.
2. Learned counsel appearing on behalf of the petitioner would submit that the impugned order is unsustainable and bad in law as no reason has been assigned by the trial Court for holding the application as not maintainable.
3. I have heard learned counsel for the petitioner and perused the impugned order with utmost circumspection.
4. It is correct to say that no reasons have been assigned and non-speaking order has been passed by the trial Court rejecting the petitioner's application filed under Section 65 of the Evidence Act, whereas the trial Court is required to assign reasons for rejecting the said application.

Therefore, the impugned order is set aside and the application filed by the petitioner / defendant under Section 65 of the Evidence Act is allowed subject to payment of cost of Rs. 2,000/- to the plaintiff and the matter is remitted to the trial Court to consider the petitioner / defendant's application afresh and thereafter pass a reasoned and speaking order within ten days from the date of receipt of copy of this order after hearing the parties. However, the respondent / plaintiff would be at liberty to move an application for modification of the order, if he is aggrieved.

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

Sd/-

(Sanjay K. Agrawal)
Judge