

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 664 of 2016

- M/s Sky Automobiles, A Firm Registered under Indian Partnership Act Represented through Anil Kumar Agrawal, Partner, Office at Mohaba Bazar, Raipur, Tehsil and District Raipur (C.G.)

---- Petitioner

Versus

- Hemant Laheja, S/o not known to the petitioner, R/o House No.460, Thakur Pyarelal Ward, lakhe Nagar, Raipur, Tehsil and District Raipur (C.G.)

At. P/- Jagarnath Mandir, Shri Provision Store, P.r.T. Colony, Amleshwar District – Durg (C.G.)

---- Respondent

For Petitioner	:	Shri Kishore Bhaduri, Advocate.
For Respondent	:	Shri G.D. Vaswani, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

09/01/2017

With the consent of the parties, the matter is heard finally.

2. In a money suit filed by the plaintiff/petitioner, the petitioner could not adduce evidence for about two years and ultimately by the impugned order the Court below has closed the right of the petitioner/plaintiff to adduce evidence, and has directed for recording the evidence of defendant. It is this order which has been assailed by the petitioner in this writ petition.

3. Shri Bhaduri, counsel for the petitioner submits that true it is that the plaintiff could not adduce evidence despite several opportunities, however, the same was on account of unavoidable circumstances. It has been argued that on the last date, senior counsel engaged was not well and, therefore, the evidence could not be adduced. Learned counsel submits that last opportunity may be granted to the plaintiff to adduce evidence subject to payment of reasonable cost. He further submits that if on the next date the plaintiff fails to adduce evidence, the Court may pass appropriate order.

4. Opposing the submission it has been argued by counsel for respondent that no sympathy is required to be shown with the petitioner/plaintiff as despite number of opportunities he has failed to adduce any evidence. He submits that now the Court has closed the case for argument and, therefore, the petition may be dismissed.

5. Considering the facts and circumstances of the case, in particular the fact that on the last date an application was filed seeking adjournment on the ground of sickness of the counsel, present is a money suit, one last opportunity is granted to the plaintiff/petitioner to adduce his entire evidence subject to payment of cost of Rs.10,000/- to be paid to defendant. If on the next date also the plaintiff/petitioner fails to adduce evidence, the Court may proceed in accordance with law.

6. Both the parties submit that next date has been given as 20th January, 2017.

7. Plaintiff/petitioner is directed to complete his entire evidence on next date and If he fails to do so, the Court may proceed in accordance with law. In the eventuality of recording evidence by the plaintiff, the defendant would also be at liberty to adduce his evidence, if he so desires.

8. Accordingly, the petition is disposed of to the extent indicated herein above.

Sd/-

(Pritinker Diwaker)

JUDGE