

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No.809 of 2013

- Sanjay Jain S/o Chiranjeev Lal Jain, Aged About 45 Years, R/o Nandini Road, Bhilai, Po & Ps Bhilai, Distt Durg, Cg

---- Petitioner

Versus

1. The Commissioner Municipal Corporation Bhilai, Po & Ps Bhilai, Distt Durg, Cg
2. The Building Officer Municipal Corporation, Bhilai, Po & Ps Bhilai, Distt Durg, Cg
3. State Of C.G. Through The Collector, Durg, Distt Durg, Cg

---- Respondents

For Petitioner	:	Shri P. R. Patankar, Advocate
For Respondent No.1 & 2	:	Shri Prasoon Agrawal, Advocate
For Respondent No.3/State:	:	Shri D. R. Minz, Dy.GA

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/01/2017

Heard.

2. This is a petition filed under Article 227 of the Constitution of India aggrieved by order dated 13-09-2013 to the extent it rejects application for leading secondary evidence. Learned counsel for the petitioner submits that rejection of petitioner's application for leading secondary evidence of Rin Pustika, which is a material document to support the petitioner's case in the pending suit, has seriously prejudiced his case. It is submitted that the documents are in possession of the Municipal Corporation, Bhilai, but the Corporation did not produce the said documents before the Court.

3. During the course of arguments, learned counsel for the respondents No.1 & 2 has clearly stated that it is not disputed by any of the parties that the documents, of which, the secondary evidence is sought to be led by the petitioner is in possession of the Corporation, who is a party to the suit.

4. After going through the order, it is clear that the original Rin Pustikas' are stated to be in possession of the Corporation. The Corporation is a party to the suit. In these circumstances, when the original documents are in possession of the Corporation, there is no need to permit the petitioner to lead secondary evidence. As and when required, the plaintiff (petitioner herein) can always move an application before the Court for production of relevant records/Rin Pustika from the possession of defendant No.1-Commissioner, Municipal Corporation for leading documentary evidence and if such application is filed by the petitioner before the Court below, the Court below shall act in accordance with law directing production of relevant records of Rin Pustika, which is in possession of the Corporation and it would be open for the petitioner to prove the said document by examination of appropriate witness.

5. With the aforesaid observation, this petition is finally disposed off.

SD/-

(Manindra Mohan Shrivastava)

Judge