

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.680 of 2017**

Mohammad Shahid Shageer S/o Sheikh Mohammad Shageer, Aged About 24 Years R/o Near Sahu Jalebi Bhandar, Borsi Road New Adharsh Nagar Potiya Kala Tahsil & District Durg Chhattisgarh.

---- **Petitioner****Versus**

1. Rai Singh Dhikola S/o Late Bheem Singh Dhikola, Aged About 38 Years Occupation Trasporter, R/o 20 Mohan Nagar Durg Tahsil & District Durg Chhattisgarh. (Plaintiffs 1 4)
2. Smt . Harjinder Dhikola, W/o D P Rai Singh Dhikola Aged About 35 Years Occupation Transporter, R/o Mohan Nagar, Durg Tahsil & District Durg Chhattisgarh.
3. Riyajuddin Qureshi S/o Shri Badruddin Qureshi Aged About 35 Years Occupation Advocate, R/o Kelabadi, Durg Tahsil & District Durg Chhattisgarh.
4. Smt. Yaasmin Fatima Qureshi W/o Riyajuddin Qureshi Aged About 30 Years Occupation Transporter, R/o Kelabadi Durg Tahsil & District Durg Chhattisgarh.
5. Panjab National Bank Branch Durg, Through Branch Manager, Station Road, Durg District Durg Chhattisgarh. Defendant No. 2

-----**Respondents**

For Petitioner:
For Respondents:

Shri Sudeep Agrawal, Advocate.
None.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

21.09.2017

1. Heard on admission.
2. This Petition has been preferred by Defendant No.1 under Article 227 of the Constitution of India by questioning the order dated 11.8.2017 by which the application filed by Defendant No.1 for providing him an opportunity to produce his evidence was rejected.
3. It was stated in the said application that since Defendant No.1 has already submitted his affidavit as per the provisions prescribed under Order 18

Rule 4 CPC and therefore, in order to defend his case, he is required to be given an opportunity to produce his evidence.

4. After considering the said application, the trial Court has rejected the same by its order impugned dated 11.8.2017 by observing that since despite sufficient opportunity being provided earlier, Defendant No.1 has failed to produce his evidence. It was also observed that in an earlier occasion, a similar prayer was refused vide order dated 11.2.2015 and subsequently also on 22.6.2015.

5. Being aggrieved by the aforesaid order, the instant Petition has been filed . Shri Sudeep Agrawal, learned Counsel for the Petitioner submits that in the interest of justice, at least one opportunity is required to be given to the Petitioner so that he may defend his case, particularly when a suit for specific performance of contract has been filed against him.

6. I have heard learned Counsel for the Petitioner and perused the entire relevant papers annexed with this Petition carefully.

7. From perusal of the record, it is evident that Defendant No.1 was provided sufficient opportunity to produce his evidence from January, 2013 to February, 2015. It is also not in dispute that in an earlier occasion, his evidence was closed vide order dated 11.2.2015 and then also on 22.6.2015. In view of the said fact, I do not find any infirmity in the order impugned and therefore it deserves to be and is hereby affirmed.

8. In view of above, the Petition being devoid of merits is accordingly dismissed at the admission stage itself.

Sd/-
(Sanjay Agrawal)
JUDGE