

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 934 of 2017**

Ravindra Nath Agrawal S/o Late Suryavanshi Lal Agrawal Aged About 61 Years R/o Purani Basti Baniyapara Raipur Tahsil And District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. Harish S/o Anand Ram @ Anant Ram Sindhi, Aged About 39 Years, Occupation Business R/o Akaltara Ward No. 7 Station Road, Shastri Chowk, Akaltara, Tahsil Janjgir (Now Akaltara) District Janjgri Champa Chhattisgarh.
2. Murlidhar S/o Anand Ram @ Anant Ram Sindhi, Aged About 27 Years, Occupation Business And R/o Akaltara Ward No. 7 Station Road, Shastri Chowk, Akaltara, Tahsil Janjgir (Now Akaltara) District Janjgri Champa Chhattisgarh.
3. Raj Kumar S/o Anand Ram @ Anant Ram Sindhi Aged About 37 Years Occupation Business And R/o Akaltara Ward No. 7 Station Road, Shastri Chowk, Akaltara, Tahsil Janjgir (Now Akaltara) District Janjgri Champa Chhattisgarh.

---- Respondents

For Petitioner : Mr. N. K. Chatterjee, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****15/12/17**

1. The petitioner / plaintiff's application under Order 26 Rule 1 of C.P.C. for his examination on commission has been rejected by the trial Court by order dated 24.11.2017 finding no ground, against which this writ petition under Article 227 of the Constitution has been preferred by the petitioner.
2. Learned counsel appearing on behalf of the petitioner would submit that the impugned order is unsustainable and bad in law as the petitioner is seriously ill and is unable to move and, therefore, it would be expedient to

grant the said application and the impugned order be set aside.

3. I have heard learned counsel for the petitioner and perused the impugned order with utmost circumspection.

4. Considering the submissions made by learned counsel for the petitioner and the medical condition of the petitioner, it would be expedient to allow the application filed by the petitioner / plaintiff under Order 26 Rule 1 of C.P.C. subject to payment of cost of Rs. 2,000/- to the respondents / defendants. The petitioner will be examined, if any, and cross-examined on commission on the date fixed for hearing i.e. on 08.01.2018 and all the expenses of the commissioner including the traveling expenses will be borne by the petitioner / plaintiff himself. It is made clear that no further time will be granted to petitioner / plaintiff for his examination / cross-examination.

5. Certified copy, today. On production of certified copy, the trial Court, before the date of hearing, is directed to take the necessary steps.

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

Sd/-

(Sanjay K. Agrawal)
Judge