

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.470 of 2014**

Masood Khan S/o Shri Adbul Rahim Khan Aged About 32 Years
Caste Muslim, R/o Juniline, Bilaspur, P.S. City Kotwali, Tahsil,
Revenue and Civil District Bilaspur (CG).

---- Petitioner**Versus**

1. Bisaru, S/o Ghasiya Kenwat Aged About 60 Years R/o
Pendridih, PS Hirri Bilaspur, Tahsil Belha, District Bilaspur (CG).
2. Karamveer Singh S/o Shri Ramgulam Singh Aged About 40
Years Caste Kshatiya, R/o Madhuban Road, Dayalband,
Bilaspur, PS City Kotwali, District Bilaspur (CG).
3. Vimlesh Agrawal S/o Late Shri Omprakash Agrawal Aged About
38 Years R/o Hansa Vihar, Shrikant Verma Marg, Ward No. 14,
Vinoba Nagar, P.S. Tarbahar, Tahsil and District Bilaspur (CG).
4. State Of C.G. Through Collector, District Bilaspur (CG) (Formal
Party) Office Collectorate Campus, Tahsil Revenue and Civil
District Bilaspur (CG).

--- Respondents

For Petitioner : Mr. Rupesh Shrivastava, Advocate
For Respondents No.1 to 3 : Mr. Rajeev Shrivastava, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****22/09/2017**

Heard.

(1) Learned counsel appearing for the petitioner/plaintiff would submit that the petitioner's application under Order 18 Rule 17 of the Code of Civil Procedure, 1908 (for short 'the CPC') has been rejected by the trial Court by its impugned order dated 01.05.2014, against which this writ petition under Article 227 of the Constitution of India has

been filed by the petitioner/plaintiff. He relied upon an order passed by this Court in the matter of **Gokul Vs. Rajwantin Bai & Others** passed in **Writ Petition No.492 of 2004**, decided on 15.03.2005.

(2) Learned counsel appearing for the respondents No.1 to 3 would submit that for exhibiting the documents at the instance of party to the suit the witness cannot be recalled. In support of the case, he would rely upon the decision of this Court in the matter of **Ajay Kumar Agrawal Vs. Smt. Sushila Bai and another** and connected matters passed in Writ Petition (Article 227) No.918 of 2013, decided on 06.01.2015, in which this Court has held as under in paragraph-14:-

“14. Even otherwise a reading of the subject application would clearly indicate that no prayer for recall of the witness was made. The only prayer made in the application was for permitting the plaintiff to prove the documents. Rule 17 Order 18 of the CPC nowhere provides for such permission for proving the document. It appears, the plaintiff being aware of the limitation that a witness cannot be recalled at the instance of a party to the suit, the application has been couched in such a language where he has sought permission to prove the document which once allowed would automatically have the effect of recalling a witness”.

(3) In view of the aforesaid legal provisions of law and particularly the evidence of both the parties have already been closed. The case of **Gokul** (supra) relied by the counsel for the petitioner is distinguishable on facts in view of the order passed by this Court in the matter of **Ajay Kumar Agrawal** (surpa). The trial Court has not committed any such illegality or irregularity warranting interference of this Court, the writ petition is liable to be and is hereby dismissed.

(4) The Registry is directed to send the copy of this order to the trial Court for its perusal and needful action.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-