

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Art. 227) No.758 of 2016

Balbhadra Prasad Agrawal, Age 46 years, S/o Shri Ramsundar Lal Agrawal, Caste Agrawal, Occupation Shopkeeper, R/o Katiyapar, Udai Chowk, Juna Bilaspur, Bilaspur, presently at Opposite Chhattisgarh Bhawan, Near Tahsil Office, Bilaspur, Tahsil and District Bilaspur, Civil and Revenue District Bilaspur.

(Defendant No.1)
---- Petitioner

Versus

1. Rampal Shukla, S/o Late Ramsnehi Shukla, aged about 70 years, Caste Brahman, Retired Bank Employee, R/o Shanichari Bazar Road, Bilha, Tahsil Bilha, District Bilaspur (C.G.)

(Plaintiff)

2. State of Chhattisgarh, through the Collector, Bilaspur (C.G.)

(Def. No.2)
---- Respondents

For Petitioner: Ms. Prachi Agrawal, Advocate
For Respondent No.1: Mr. Dharendra Mishra, Advocate.
For Respondent No.2: Mr. U.N.S. Deo, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/05/2017

1. By the impugned order, the application filed by defendant No.1 under Section 45 of the Evidence Act has been rejected on the ground of delay, as the suit was filed in the year 2008 and the case is being fixed for defendant's evidence since 24-7-2015.
2. Learned counsel for the petitioner / defendant No.1 submits that it is absolutely necessary to counter the report of handwriting expert preferred by the plaintiff.
3. On the other hand, learned counsel for respondent No.1 / plaintiff

would oppose the writ petition.

4. I have heard learned counsel for the parties and perused the order impugned as also other documents filed along with the writ petition with utmost circumspection.
5. The trial Court has recorded sufficient reasons to hold that such a permission cannot be given, as the suit is pending since 2008 and defendant No.1 is taking time for evidence since 24-7-2015, in which I do not find any good ground to entertain the writ petition. However, the petitioner / defendant No.1 is free to get the document examined by any private handwriting expert and to submit and prove the said report, in accordance with law.
6. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge