

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 08 of 2018

Pro. Gouri Shankar Rice Mill, Anjoripali, Kharsia, Tahsil Kharsia, District Raigarh, Chhattisgarh, Proprietor Manoj Kumar Agrawal, R/o. Gurudwara Road Kharasia, District Raigarh, Chhattisgarh.

---- Petitioner

Versus

Shiv Kumar Agrawal, S/o. Late Shri Satyanarayan Agrawal, Pro. Jai Shri Ram Rice Mill, Faguram, Tahsil Malkharoda, District Janjgir Champa, Chhattisgarh

---- Respondent

For Petitioner : Mr. Malay Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

05.01.2018

Heard

1. The instant petition is against the order dated 29.11.2017 wherein an application to get examined the defendant witness on commission has been dismissed.
2. Learned counsel for the petitioner would submit that the witness named Gourishankar Agrawal who is the defendant is 78 years old and has undergone Knee replacement, therefore, he is bedridden and could not be able to travel to Court to adduce his evidence; therefore, he may be examined on commission. It is further contended that the next date is fixed for 10.01.2018 and last opportunity has been given and on earlier occasion because of the inadvertence the medical certificate could not be produced, which is produced here in this case. Consequently, the witness may be examined on commission.
3. Perused the order dated 29.11.2017. Primarily the application to examine the witness on commission has been dismissed on the

ground that no document has been filed showing the physical condition of the petitioner/defendant.

4. Learned counsel for the petitioner referred to Annexure P-5, which is a medical certificate wherein it has been stated that the defendant has been advised for rest. He also contended that as per the instructions received, presently the petitioner is bedridden.
5. Considering the same, as the examination on commission will not prejudice the party, Annexure P-5 which is a medical certificate is accepted for the purpose and it is directed that the petitioner may be examined on commission within a period of 15 days from today and the commissioner may be appointed locally by the trial Court.
6. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge