

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 115 of 2016**

Savitri Bai, W/o Premrao Kadam, aged about 58 years, Caste – Maratha,
Resident of village – Parkhanda, Tahsil and P.S. Kurud, Revenue and
Civil District– Dhamtari (C.G.) (Defendant No. 1)

---- Petitioner**Versus**

1. Tiharuram, S/o Bishambhar, aged about 61 years, Caste – Dhobi, Resident of Village - Parkhanda, Tahsil and P.S. Kurud, Revenue and Civil District- Dhamtari (C.G.) (Plaintiff)
2. Ashokpuri @ Babla, S/o Suryasen Puri, aged about 63 years, Caste- Goshwarmi, Resident of village – Demar, Tahsil and P.S. Kurud, Revenue and Civil District – Dhamtari (C.G.) (Defendant No. 2)
3. State of Chhattisgarh, Through Collector, Dhamtari, District – Dhamtari (C.G.) (Defendant No. 3)

----Respondents

For Petitioner	: Mr. Prakash Tiwari, Advocate.
For Respondent No.1	: Mr. R.K. Pali, Advocate.
For Respondent No. 3	: Mr. Adhiraj Surana, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****29/11/2018**

1. By the impugned order, the trial Court has allowed the application preferred by respondent No.1/plaintiff under Order 16 Rule 2 of the Code of Civil Procedure (henceforth "CPC") directing issuance of summons to the Revenue Inspector, Kurud and Kotwar of vilage Nawagaon for their evidence, against which instant writ petition has been filed questioning the same.
2. Learned counsel for the petitioners submits that in the application under Order 16 Rule 2 of the CPC, the plaintiff has not assigned sufficient cause or reasons for summoning the aforesaid witnesses *whereas* plaintiff ought to have assigned sufficient and cogent reason for summoning the aforesaid witnesses in terms of Order 16 Rule 1 & 3 of the CPC and, therefore, the impugned order

is liable to be set aside.

3. On the other hand, counsel for respondent No.1 would support the impugned order.

4. I have heard learned counsel appearing for the parties.

5. In fact, it is an application under Order 16 Rule 1 (3) of the CPC as the Revenue Inspector, Kurud and Kotwar of the village Nawagaon are not the listed witnesses; and the trial Court finding sufficient cause for summoning the aforesaid witnesses under Order 16 Rule 1 of the CPC for just & proper decision of the suit, directed summoning of the aforesaid witnesses, which is strictly in accordance with law and I do not find any illegality or perversity in the same warranting interference under Article 227 of the Constitution of India.

6. Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

