

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 940 of 2017**

- Ghanshyam Das Gangwani S/o Shri Wadhupal Ji Gangwani, Aged About 63 Years Occupation Advocate Caste Sindhi Hindu R/o Main Road Juna Bilaspur In Front Of Laxmi Takiz Bilaspur P S City Kotwali Bilaspur Tahsil And District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. J. C. Benarji @ Jagdish Chandra Bandopadhyay S/o Late K. P. Benarji, Aged About 64 Years Caste Bangali Bramhin R/o Vivekanand Nagar, Mopka P S Sarkanda Tahsil And District Bilaspur, Chhattisgarh., Chhattisgarh
2. Anand Kumar S/o Shri Prikshit Kumar, Aged About 48 Years Through J. C. Benarji, Vivekanand Nagar, Mopka P. S. Sarkanda Tahsil And District Bilaspur, Chhattisgarh
3. Sarkari Karmchari Sahkari Grih Nirman Samiti Maryadit, Registration No. 3157, Railway Colony, At Present Mopka Through President J. C. Benarji, Vivekanand Nagar, Mopka P. S. Sarkanda Tahsil And District Bilaspur, Chhattisgarh
4. State of Chhattisgarh Through Collector Bilaspur District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner : Shri Dheerendra Pandey, Advocate

Honb'le Shri Justice Goutam Bhaduri**Order On Board****12/02/2018**

1. The present petition is directed against the order dated 24.11.2017, whereby the right to lead evidence of the plaintiff was closed.
2. Learned counsel for the petitioner would submit that the affidavit of the plaintiff is already on record and it was at the instance of the defendant the case was adjourned and not at the instance of the plaintiff and the case was

fixed for cross-examination on 23.11.2017, 24.11.2017 & 25.11.2017 but on 24.11.2017 in absence of the witnesses, the right to lead evidence has been closed, therefore, one opportunity may be given so that the case may be decided on merits and on the next date the plaintiff shall keep the witnesses present before the Court.

3. Perusal of the order dated 24.11.2017 reflects that prior to that on 23.11.2017 one witness Ghanshyam Das Gangwani was cross-examined and he was directed to produce his witness on 24.11.2017. The order also reflects that Defendants No.1 to 3 have already availed 8 effective opportunities for cross-examination of the witness earlier to that date, therefore, prima facie it appears that the plaintiff witnesses were present on the earlier occasion, however, the defendant availed the date to cross-examine. So the entire default cannot be attributed to the plaintiff by reading of the order. Further in view of the fact that the statement is made that the plaintiff's witnesses are already on record by way of Order 18 Rule 4 CPC, in the interest of justice one opportunity is granted to the plaintiff to keep his witness present on the next date so that his witness can be cross-examined subject to payment of cost of Rs.2000/- payable to the defendants. Plaintiff is directed to keep his witness present on the next date of hearing before the Court below so that they may be cross-examined. It is made clear that no further adjournment shall be given to the plaintiff to keep his witness present.

4. With such observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

