

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 167 of 2018**

- Raghvendra Das Vaishnav S/o Late Narendra Das Vaishnav Aged About 53 Years R/o Anushtha Residency Colony, Junwani, Tehsil And District- Durg, Chhattisgarh.(Plaintiff)

---- Petitioner**Versus**

1. Shrimati Uma Bai Wd/o Late Ramanarayan Sahu Aged About 60 Years(Defendants)
2. Devendra Sahu S/o Late Ramanarayan Sahu Aged About 43 Years
3. Surendra Sahu S/o Late Ramanarayan Sahu Aged About 39 Years
4. Yogendra Sahu S/o Late Ramanarayan Sahu Aged About 37 Years

Respondents No.1 to 4 are R/o Village Junwani Basti Ward -1, Bhilai, Tahsil & District Durg (C.G.)

5. Shrimati Tarni Sahu D/o Ramanarayan Sahu Aged About 41 Years R/o Nagpura Borai Tahsil And District- Durg, Chhattisgarh
6. Lekh Ram Sahu S/o Late Lakshman Sahu Aged About 61 Years
7. Khublal Sahu S/o Late Lakshman Sahu Aged About 44 Years

Respondents No.6 & 7 are R/o Village Junwani Basti Ward-1, Bhilai Tahsil And District- Durg, Chhattisgarh

8. Shrimati Kalindri Sahu W/o Gendlal Sahu Aged About 72 Years R/o Palod Basti, Abhanpur District- Raipur, Chhattisgarh
9. Shrimati Satbai Sahu W/o Shriram Sahu Aged About 64 Years R/o Village Semariya Basti Litiya Jalbandha, Tahsil And District- Durg, Chhattisgarh
- 10.State Of Chhattisgarh, Through Collector, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
- 11.Deputy Director, Department Of Town And Country Planning, District Panchayat Bhawan, First Floor, G. E. Road, Tehsil And District- Durg, Chhattisgarh
- 12.Tahsildar, Durg, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
- 13.B. B. Singh S/o Late S. B. Singh Aged About 42 Years R/o House No. 2, Road No. 25, Sector-2, Tahsil Bhilai, District- Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate
For Respondents-State	:	Ms. Astha Shukla, PL for the State

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26/02/2018

1. Heard.
2. The instant petition is against the order dated 06.12.2017, whereby right to file statements of the additional witnesses of the plaintiff was closed.
3. Learned counsel for the petitioner would submit that on 02.11.2017 the case was fixed for evidence, wherein time was granted to adduce evidence to the plaintiff to 24.11.2017. On 24.11.2017 it was directed that all the statements of the witnesses be placed on record. Subsequently, on 06.12.2017 three affidavits i.e. of the witnesses statements were placed on record and who were cross-examined. Further on that date further time was sought to place on record the evidence of the other remaining witnesses but such prayer was dismissed on the ground that the case is pending since 2008 thereby opportunity to file statements of the other witnesses i.e. the evidence was closed. He further submits that one opportunity may be granted to adduce evidence and it is not the case that exorbitant time has been availed and date will show that the witnesses were present and cross-examined also.
4. Perused the order-sheet. By order dated 24.11.2017 the Court below has directed to place on record the statements of the witnesses on record. Subsequently, order-sheet shows that on 06.12.2017 statements of three witnesses were filed under Order 18 Rule 4 CPC and the case was fixed for cross-examination of the witnesses and on that date further prayer to place

on record the statement of witnesses were denied. The order-sheet as revealed that the statement of three witnesses though were filed but were not cross-examined.

5. The case is for specific performance of contract. Considering the facts & situation of the case, in the interest of justice it would be proper to allow the petitioner to place on record the statements of the witnesses under Order 18 Rule 4 CPC, subject to payment of cost of Rs.2000/- payable to the respondents. Accordingly, the petition is allowed. The petitioner is directed to file the statements of the witnesses on the next date. Further he shall also keep the witness present thereafter so that they may be cross-examined and petitioner may seek the intervention of Court to procure their presence before the Court by summoning them by following due procedure of law.
6. With such observation, the petition stands disposed of. The aforesaid order is passed to advance the cause of justice so that the case can be decided on merits.

Sd/-

Goutam Bhaduri

Judge

Ashu