

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 257 of 2018

1. Kailash Sharma S/o Late Dulichand Sharma Aged About 53 Years,

2. Govind Sharma S/o Late Dulichand Sharma, Aged About 48 Years,

Both are R/o Jindal Road, Dhimrapur Chowk, Raigarh District
Raigarh Chhattisgarh

---- Petitioners

Versus

1. Akash Sharma S/o Late Baijnath Sharma Aged About 26 Years
R/o Chakradharnagar, infront of polytechnic collage, Raigarh Distt.
Raigarh C.G.

2. Smt. Chandani Sharma, W/o Raj Sharma Aged About 35 Years
R/o C - 11, Kamleshwari, Satyam Vihar, Navneet Society, Narendra
Nagar, Nagpur, District Nagpur (Maharashtra).

3. Smt. Sonal Sharma, W/o Ashish Sharma, Aged About 29 Years
R/o A.P.R. 63, Katanga Colony, Jabalpur (M.P.)

4. Smt. Jayshri Sharma, W/o Late Baijnath Sharma, Aged About 55
Years,

5. Suraj Sharma, S/o Late Baijnath Sharma, Aged About 31 Years
Respondents No.4 &5 R/o Chakradhar Nagar, Raigarh, District
Raigarh Chhattisgarh.

6. State Of Chhattisgarh Through Collector, Raigarh Chhattisgarh.

--Respondents

For petitioners- Shri Amit Sharma, Advocate.
For State- Shri S.R.J. Jaiswal, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

22/03/2018

Heard.

1. Instant petition is against the order dated 12/02/2018 and 24/02/2018 whereby right to cross-examination of the defendant's witness was closed by the court below.

2. Learned counsel for the petitioners would submit that one of the witness Om Prakash Agrawal who was defendant's witness though his

statement was filed under Order 18 Rule 4 CPC but he could not be examined on the date because of the accident of one of the relative of the said witness he had to go to Korba. Thereafter, when application was filed for cross-examination same was dismissed, therefore one opportunity may be given.

3. Perused the order dated 12/02/2018 and 24/02/2018 as also application filed under section 151 CPC. Application under section 151 CPC shows that statement of Om Prakash Agrawal the witness though is on record but he could not be cross-examined as some of the relative died because of accident. It further records that on 24/02/2018 Om Prakash Agrawal was present in the court and was ready to be cross-examined. Order sheet dated 24/02/2018 shows that application to cross-examine the witness was dismissed and the case was fixed for final argument. Order sheet of 24/02/2018 bears signature of Om Prakash Agrawal in the margin, therefore apparently it appears that on that date he was present. Taking into reasons stated by witness of the defendant Om Prakash Agrawal that one of the relative of Om Prakash Agrawal stated to have died in the accident, in the opinion of this court one opportunity may be given to the defendant.

4. In view of this, as has been stated case is fixed for final argument of the parties on 27/03/2018, it is directed that the petitioner/defendant shall keep his witness present on that date before the court for cross-examination subject to payment of Rs.1500/- to the plaintiff. Thereafter, the court may proceed accordingly.

5. With such observation, the petition stands disposed off.

Sd/-

(Goutam Bhaduri)
JUDGE

