

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 390 of 2018

1. Gurmel Singh, S/o. Late Shri Gurucharan Singh, Aged About 44 Years.
 2. Jaspal Singh, S/o. Gurmel Singh, Aged About 30 Years,
 3. Gurpreet Singh, S/o. Gurmel Singh, Aged About 27 Years.
- All R/o. Farmer House, Gurunanak Nagar, Raipur Chhattisgarh.

---- **Petitioners**

Versus

1. Ajmer Singh, S/o. Rajjan Singh, Aged About 59 Years.
 2. Smt. Kulwant Kaur, D/o. Shri Ramchandra, Aged About 60 Years.
- Both R/o. Shyam Nagar, Raipur Chhattisgarh.

---- **Respondents**

For Petitioner : Ms. Sharmila Singhai, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.05.2018

Heard

1. The present petition is against the order dated 20.04.2018 whereby the right to lead evidence of the plaintiff was closed and the case has been fixed for defence witness to prove the evidence on the counter claim.
2. Learned counsel for the petitioners submits that on 17.07.2017 initially while a document is being executed by the plaintiff during his evidence i.e. deed of exchange, it was objected by the defendant that it was not properly stamped. Being so, the trial Court had ordered for impounding the same and asked the parties to get it impounded and come back with the certificate. Consequently, the matter of impounding the document was before the Collector of Stamps and was beyond the control of the plaintiff. The Collector Stamps subsequently had given certain dates and in the meanwhile the civil suit before the Court below came up for

hearing and the Court below without appreciation of fact that the Collector Stamps had not given the certificate had closed the evidence of the plaintiff. The counsel submits that presently when the petition was filed, the Collector of Stamps has given the certificate of impounding and therefore one opportunity may be given to the plaintiff as the facts was beyond the control of the plaintiff.

3. Perused the order dated 17.07.2017 wherein it reflects that during the evidence, a document when was produced was directed to be sent for impounding to the Collector. Subsequently, the order dated 20.04.2018, which is the impugned order, the Court below has closed the evidence of the plaintiff on the ground that the plaintiff is unable to bring back the document which was sent for impounding to the Collector of Stamps and several dates have passed. Primarily the Court below has dismissed the petition on the ground that direction has been given by the High Court to decide the case which is pending more than 10 years within a short period of time. Perusal of the order dated 17.07.2017 whereby the document was sent for impounding to the Collector of Stamps having been sent to the Collector of Stamps obviously it prima facie appears that the facts were beyond the control of the plaintiff and subject document was in the premises of Collector of Stamps for adjudication of the sufficiency of the stamp on it.
4. As has been stated and statement has been made at the bar that the document and certificate has been received by the petitioner and letter is also issued to the respective Court. In the circumstances of the case, it is felt that there was sufficient reason existed in favour of the plaintiff whereby he failed to produce the document on the date of hearing. Consequently, the plaintiff is

given an opportunity to place the document before the Court on the next date of hearing and is allowed to adduce evidence in respect of the same. It is further made clear that the plaintiff shall also produce all his witness on the date as and when thereafter fixed by the Court below. Accordingly, the order dated 20.04.2018 whereby the right to lead evidence of the plaintiff was closed is set aside.

5. In the result, the petition is allowed.

Sd/-
(Goutam Bhaduri)
Judge