

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 481 of 2018

1. Sunil Pathak S/o Late Shri Mukut Narayan Pathak, Aged About 68 Years
2. Anil Pathak S/o Late Shri Mukut Narayan Pathak
3. Anjali Pathak, D/o Shri Sunil Pathak

All R/o Raja Talab Road, Civil Lines, Tehsil And District Raipur
Chhattisgarh (Plaintiffs)

---- Petitioners

Versus

1. State Of Madhya Pradesh (Presently State Of Chhattisgarh) Through Collector, Raipur, District Raipur Chhattisgarh.
2. Nazul Officer, Raipur, Through Collector, Raipur, District Raipur Chhattisgarh.
3. Nayab Tehsildar, Nazul Branch, Through Collector, Raipur, District Raipur Chhattisgarh. (Defendants)

---- Respondents

For Petitioners : Mr. Achyut Tiwari, Advocate
For State : Mr. S.R.J.Jaiswal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18.05.2018

Heard

1. The present petition is against the order dated 26.03.2018 whereby an application under Order 16 Rule 1(3) of C.P.C. filed by the petitioners/ plaintiffs was dismissed.
2. Learned counsel for the petitioners submits that the case is in the stages of plaintiffs' evidence and certain documents are already on record, which the plaintiffs wanted to prove by the witness who is an Advocate and therefore the application was filed under Order 16 Rule 1 of C.P.C. to call the witness through the intervention of the Court. It is stated that the Court, without application of mind, has dismissed the same, which is completely perverse and cannot be sustained.

3. Perused the order dated 26.03.2018 wherein the application under Order 16 Rule 1(3) of C.P.C. was dismissed. The facts as would reveal that the case is already at the stages of the plaintiffs' evidence. Perusal of the facts would show that only the application has been dismissed on the ground that the same was filed at the belated stage. In the application moved under Order 16 Rule 1(3) of C.P.C. it has been stated that the witness to whom the plaintiffs want to examine has inspected the suit spot in a proceeding of another case and spot inspection report of that proceeding is appears to be already on record.
4. Taking into such facts and the reasons assigned, no enormous delay appears to exist in the face of the record. Consequently, the application under Order 16 Rule 1(3) of C.P.C. is allowed. The proposed plaintiffs' witness is allowed to be called before the Court through the intervention of the Court on the next date of hearing and the plaintiffs may examine the witness and thereafter the defendants would be allowed to adduce the evidence.
5. With such observation, the petition stands disposed off.