

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P. (227) No. 34 of 2017**

Chhattisgarh Vikash Grih Nirman Samiti Maryadit, Bhilai-3, Chroda (Registration No. /D.R./D.R.G./89/ Dated 25.06.1983) Through Incharge Officer, Deputy Registrar Office, Sahakari Samitiyan Bunkar Sangh Bhawan, Santra Badi, Durg, Tahsil & District- Durg, Chhattisgarh Pin-491001

---- Petitioner**Versus**

1. Pankaj Kumar Dwivedi, S/o. Shiv Kumar Dwivedi, Aged About 37 Years, R/o. Padum Nagar, Beside Hanuman Mandir, Ward No. 17, Bhilai-3, Charoda, Tahsil- Patan, District- Durg, Chhattisgarh.
2. Chandrahash Pandey, S/o. J.L.Pandey, R/o. D-406, Maitri Nagar, Raipur, Tahsil & District- Raipur, Chhattisgarh, Pin-492013.
3. State Of Chhattisgarh, Through The Collector, Durg, Chhattisgarh.

---- Respondents**&****W.P.(227) No. 42 of 2017**

Chhattisgarh Vikash Grih Nirman Samiti Maryadit, Bhilai- 3, Choroda (Registration No./ D.R./ D.R.G./89/dated 25.06.1983) Through Incharge Officer, Deputy Registrar Office, Sahakari Samitiyan Bunkar Sangh Bhawan, Santra Badi, Durg, Tahsil & District Durg Chhattisgarh Pin 491001

---- Petitioner**Versus**

1. Dhraj Dwivedi, S/o. Shiv Kumar Dwivedi, Aged About 38 Years, R/o. Padum Nagar, Beside Hanuman Mandir, Ward No. 17, Bhilai- 3, Charoda, Tahsil Patan, District Durg, Chhattisgarh.
2. Chandrahash Pandey, S/o. J.L.Pandey, R/o. D-406, Maitri Nagar, Raipur, Tahsil & District Raipur, Chhattisgarh Pin 492013
3. State Of Chhattisgarh, Through The Collector, Durg, Chhattisgarh.

---- Respondents

For the Petitioner	:	Mr. Avinash Chand Sahu, Advocate
For the Respondent No.1.	:	Mr. C.K.Sahu, Advocate
For Respondent No.3	:	Mr. S.K.Mishra, Panel Lawyer
For Intervenor	:	Mr. Deepak Kumar Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board**

26.02.2018

Heard.

1. Both the petitions are being heard together and decided by this common order as they are preferred against the order dated 17.11.2016 whereby an application preferred by the petitioner for change of counsel has been rejected.
2. Learned counsel for the petitioner would submit that in a suit filed before the Court below by the respondent No.1 initially an Advocate D.Sanjivi was appointed and he was looking after the case but subsequently since Shri C.L. Gaharwar was appointed as Administrator of Chhattisgarh Vikas Grih Nirman Sahkari Samiti Maryadit by the Sub Registrar Cooperative Society, he wanted to appoint another Advocate and an application was filed which was rejected. He submits that the said application for appointment of Advocate cannot be denied as the administrator himself wants to change the Advocate.
3. Learned counsel for the respondent No.1 submits that he do not have any say in the matter. The counsel who filed the intervention application was heard. The counsel for the intervener submits that he do not have any objection to handover the file, however, the file cannot be taken away by clamping false allegations on counsel as the case was conducted with due diligence and reply to the petition as also to the interim application to the civil suit were filed. It is stated that the advocate has discharged his duty with due diligence and honestly; consequently, the withdrawal of case by casually making allegation on counsel cannot be allowed.
4. Perused the documents. On earlier date, the petitioner was directed to appear with relevant document of appointment of administrator. The administrator Shri C.L. Gaharwar also appears in person with the

documents and has placed on record the document dated 18.11.2014 and would submit that he has been appointed as Administrator by the Sub Registrar Cooperative Society, Durg and when he wanted to enquire about the progress of the case, the counsel refused to divulge it, therefore, the application is filed to remove him and to appoint a different Advocate.

5. Order 3 Rule 4 of C.P.C. governs the Appointment of Pleader, which says that no pleader shall act for any person in any Court, unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognized agent. Reading of Rule 4 would show that appointment of an Advocate shall be deemed to be in force until determined with the leave of the Court by a writing signed by the client or the pleader, as the case may be.
6. In this case, an application was filed to remove the Advocate, who was earlier conducting the case. The application to remove the advocate is also placed on record, which purports that D. Sanjivi Advocate was not working in the interest of the society, therefore, the other Advocate has to be appointed. Undoubtedly, it is a prerogative of the client to appoint an Advocate and the perusal of the document would show that Shri C.L.Gaharwar was appointed as Administrator for Chhattisgarh Vikas Grih Nirman Sahkari Samiti Maryadit, which is a body corporate and is a juristic person under the Chhattisgarh Sahakari Society (Punargathan Aur Nirman) Adhiniyam, 2000, which can work through it's administrator.
7. Since Shri C.L.Gaharwar has been appointed as Administrator certainly he has right to terminate the authority of the Advocate who was representing the society earlier. Any power to terminate the authority cannot be denied when the written submission has been made for change of counsel. The respondent counsel who was

representing the Cooperative Society is appears to be aggrieved by the allegation made against him. Therefore if certain allegations have been clamped on advocate and if they are incorrect the concerned advocate will always have the remedy against such accusation to be redressed before an appropriate forum of Court of law but lien for appearance in a particular case cannot be exercised. In view of the existing facts the order dated 17.11.2016 is set aside. The application to change the counsel is allowed and the petitioner shall be entitled to appoint any Advocate of their choice before the Court below.

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

**Sd/-
(GOUTAM BHADURI)
JUDGE**