

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 585 of 2018

Santosh Kumar Tiwari, S/o. Late Shri Narmada Prasad Tiwari, Aged About 46 Years, R/o. Sharma Atta Chakki, Balmukund Gali, Near Durga Mandir, Bajrang Nagar, Raipur, P.S. Saraswati Nagar, Tehsil & District Raipur Chhattisgarh.

---- Petitioner

Versus

Prashant Shukla, S/o. Shri Jagannath Shukla, Aged About 52 Years, R/o. Station Road, Ganjpara, Banstal, Tehsil & District Raipur Chhattisgarh.

---- Respondent

For Petitioner : Mr. Harshad Vyas, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

13.07.2018

Heard

1. The present petition is against the order dated 09.03.2018 passed by the Eighth Additional District Judge, Raipur, whereby an application under Order 16 Rule 1 read with Section 151 of C.P.C. has been dismissed on the ground that the defendant/petitioner is not assigned any reason as to why he wants to examine the particular witness who has been enlisted.
2. Learned counsel for the petitioner submits that it is for the witness to depose and the fact cannot be divulged in entirety. Only two witnesses are enlisted to adduce evidence in favour of the defendant/ petitioner and in absence thereof he may suffer an irreparable loss.
3. Perused the documents, plaint and the order dated 09.03.2018. It is too technical to dismiss an application under Order 16 Rule 1 read with Section 151 of C.P.C. to disallow the witness of the defendant when only two witnesses have been enlisted. No

exorbitant delay would be caused. Denial of the witness, at this stage, would lead to multiplicity of the proceedings.

4. Under the circumstances, the order dated 09.03.2018 is set aside. The application filed by the petitioner/defendant under Order 16 Rule 1 read with Section 151 of C.P.C. is allowed. The trial Court is directed to adduce evidence of the witness of the defendant.
5. In a result, the petition is allowed.

Ashok

Sd/-
(Goutam Bhaduri)
Judge