

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 822 of 2018**

1. Krishna Bahadur Lal Shrivastava, S/o Late Shri Brijmohan Lal Shrivastava, aged about 70 years, R/o G-4, Adarsh Nagar, Durg, Tahsil and District Durg (C.G.)
 2. Sanjay Shrivastava, S/o Krishna Bahadur Lal Shrivastava, aged about 37 years, R/o G-4, Adarsh Nagar, Durg, Tahsil and District Durg (C.G.)
- Petitioners / Plaintiffs**

Versus

1. Sunil Kumar Arora, S/o Shri Kisanlal Arora, aged about 50 years, R/o Gurunanak Nagar, Durg, Tahsil and District Durg (C.G.)
 2. Navin Kumar Arora, S/o Shri Kisanlal Arora, aged about 47 years, R/o Gurunanak Nagar, Durg, Tahsil and District Durg (C.G.)
 3. Vinod Kumar Arora, S/o Shri Kisanlal Arora, aged about 44 years, R/o Gurunanak Nagar, Durg, Tahsil and District Durg (C.G.)
 4. State of Chhattisgarh, through the Collector, Durg, District Durg (C.G.)
- Respondents / Defendants**

For Petitioners

: Mr. Ajay Shrivastava, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****25/09/18**

1. By the impugned order dated 04.09.2018, the application filed by the petitioners / plaintiffs under Order 65(a)(c) of the Evidence Act, 1972 (for brevity, 'the Act') has been rejected by the trial Court against which this writ petition has been preferred.
2. Learned counsel for the petitioners submits that they have filed the notice to produce documents under Order 11 Rule 14 of CPC and notice under Section 66 was served to the defendants for production of the original documents but the defendants in their affidavit (Annexure – P/4) denied the possession of those documents that fulfills the requirement

under Section 65(a) of the Act but the submissions were not considered by the trial Court and without referring to Section 65(a) of the Act by a non-speaking an unreasoned order rejected the petitioners' application.

3. I have heard learned counsel for the petitioners.

4. True it is that the petitioners / plaintiffs served notice to the defendants to produce the documents but despite having been denied possession of the documents by the defendants, the trial Court could have considered the plaintiffs' application in terms of provision contained in Section 65(a) of the Act, but the trial Court by an unreasoned and cryptic order and without considering the provision contained in Section 65(a) of the Evidence Act rejected the plaintiffs' application which is impermissible in law. Therefore, the impugned order is set aside subject to payment of cost of Rs.2,000/- to the defendants No. 1 to 3 and the trial Court is directed to consider the matter afresh in accordance with law by a reasoned and speaking order referring to the provisions of Section 65 and 66 of the Act, within a period of 10 days from the date of receipt of copy of this order. However, the defendants would be at liberty to move an application for modification of the order, if they are aggrieved.

5. With the aforesaid observation, the writ petition is disposed of. No cost(s).

6. A copy of this order be sent to the concerned trial Court for needful and compliance.

SD/-

(Sanjay K. Agrawal)
Judge