

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(227) No. 915 of 2018**

Gramin Seva Sansthan, a Society registered under Madhya Pradesh Societies Registration Act, 1973 (Now Chhattisgarh Societies Registration Act, 1973), bearing registration S.I. No. 15828 dated 06.12.1985 with Registrar of Societies, Bilaspur (CG), having Registered Office at P.O. Pali, Tehsil Katghora Dist. Bilaspur (C.G.), present address, behind Jebbal and Sons, Nehru Nagar, Bilaspur (C.G.) 495001, through its President Shri Vijay Tiwari R/o Janta Quarters, Behind House of Smt. Satyabhama Awasthi, in the lane of Jebbal and Sons, Nehru Nagar, Bilaspur (C.G.) 495001

---- Petitioner/Defendant No.1

Versus

1. Housing and Urban Development Corporation Limited, A Central Govt. Company, registered under the Companies Act, 1956, having its Registered Office in HUDCO Bhawan, India Habitat Center Complex, Lodhi Road, New Delhi, 110003 and its Regional Office at 1-B, Surya Apartment, Katora Talab, Raipur (C.G.) 492001..... [Plaintiff]
2. The Action Aid India, Head Office at 71 Uday Park, New Delhi 110049 through its Chairman/ In-charge concerned Action Aid India, New Delhi.[Defendant No. 2]
3. Project Office, Action Aid India, Shankar Nagar, Raipur (C.G.)..... [Defendant No. 3]
4. The Collector, District Bilaspur (C.G.).....[Defendant No.4]

--- Respondents

For Petitioner/Defendant No.1 : Mr. Malay Kumar Bhaduri, Advocate.
For Respondent No. 4/ State : Mr. Ashish Surana, PL.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/10/18

1. The defendant No. 1 raised an objection that since Mr. Vinayak Murti is not a listed witness therefore his affidavit filed under Order 18 Rule 4 of CPC cannot be read into evidence which has been rejected by the trial

Court by impugned order dated 29.09.2018 against which this writ petition has been preferred.

2. Learned counsel for the petitioner submits that since Mr. Vinayak Murti was not a listed witness therefore, his affidavit cannot be read into evidence and he cannot be considered as the competent witness.

3. I have heard learned counsel for the petitioner.

4. Affidavit evidence was filed by the plaintiff under Order 18 Rule 4 of CPC of his witness Mr. Vinayak Murti before the trial Court long before and defendant No. 1 did not raise any objection at that time and allowed the affidavit to be taken on record and when the said witness appeared before the Court for examination, the defendant No. 1 filed an objection which the trial Court has rejected. If the party has already filed affidavit under Order 18 Rule 4 CPC and the witness has come before the Court for examination, it is the duty of the Court to examine that witness and merely because he is not a listed witness, he cannot be said to be an incompetent witness. The objection has rightly been over-ruled by the trial Court. I do not find any merit in the writ petition.

5. Accordingly, the writ petition deserves to be and is hereby dismissed with no order as to cost(s).

6. A copy of this order be sent to the trial Court directly and to the District Judge, Bilaspur through email and Fax expeditiously.

SD/-

(Sanjay K. Agrawal)
Judge