

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 903 of 2018

1. Shri Ramnath Sen S/o Late Manrakhan Sen, aged about 67 years, R/o Infront of Thakur House, Bhatagaon, Raipur, Tahsil and District Raipur (C.G.)
---- Petitioner / Defendant No. 1

Versus

1. Smt. Gajra Bai W/o Shri Ramu Lal Sen, aged about 65 years, R/o Village Birbira, Post Ganoud, Tahsil Aarang, District Raipur (C.G.)
.....[Plaintiff]
2. Shri Jagdish Sen S/o Shri Kaliram Sen, aged about 50 years, R/o Village Sarora, Raipur Tahsil and District Raipur (C.G.)
3. Smt. Dulari Bai Sen S/o Shri Rajendra Sen, aged about 40 years, R/o Vondru Hair Cutting Salon, R/o Village Kharora, Tahsil Tilda, District Raipur (C.G.)
4. Chhattisgarh Project India Private Limited through Pankaj Lohati, Wallfort Properties, Bhatagaon, Raipur, District Raipur (C.G.)
5. The State of Chhattisgarh, through Collector, Raipur District Raipur (C.G.)

---- Respondent/ Defendants No. 3 to 5

For Appellants	:	Shri A. K. Prasad, Advocate.
For Respondent	:	Shri Ashish Surana, PL.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/10/18

1. By the impugned order dated 28.09.2018, the defendant No.1's application under Order 8 Rule 1(a)(3) of CPC for taking documents on record has been rejected by the trial Court against which this writ petition under Article 227 of the Constitution of India has been preferred.
2. Learned counsel for the petitioner / defendant No. 1 submits that the documents are absolutely necessary for just and proper disposal of the suit and though in the written statement the document i.e. the consent deed

dated 14.04.1980 and other documents have also been pleaded but the documents could not be filed along with the written statement and have been filed at the initially stage of the trial which has been rejected by the trial Court. To support his contentions, learned counsel for the petitioner also placed reliance on the decision rendered by the Rajasthan High Court in the case **Santveer Singh v. Additional Civil Judge, Hanumangarh & Another**¹.

3. I have heard learned counsel for the petitioner and perused the impugned order with utmost circumspection.

4. From the careful perusal of the plaint and the issue framed, it appears that the consent letter dated 14.04.1980 has been referred and the other documents dated 27.06.1980 have also been referred and issue has also been framed based on those documents, therefore, the documents are absolutely necessary for just and proper disposal of the suit. The trial Court, at the initial stage, could not held that the documents are not admissible in evidence, it can be considered at the appropriate stage.

5. In view of the above, the impugned order is set aside subject to payment of cost of Rs.2,000/- to the plaintiff and further reserving the liberty in favour of the plaintiff to move an application for modification of the order if he is aggrieved. The plaintiff will also be entitled to file documents in rebuttal, if any. The aforesaid documents submitted by the counsel for the petitioner along with application are taken on record.

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

7. With the aforesaid observation, the writ petition finally stands disposed of.

SD/-

(Sanjay K. Agrawal)
Judge

¹ AIR 2004 RAJASTHAN 214

Priyanka