

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 801 of 2017**

1. Sanjay Khandelwal S/o Moolchand Khandelwal, aged about 48 years, R/o Sai Mangalam Vyapar Vihar Bilaspur, Tahsil and District Bilaspur, Chhattisgarh
2. Santosh Singh Thakur S/o N. P. Thakur, aged about 45 years, R/o Masanganj Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

---- Petitioners**Versus**

1. Bilaspur Infrastructure Pvt. Ltd. through Director Ashok Agrawal, aged about 48 years, B.F. First Floor Opposite Axis Bank, Rajeev Plaza Bilaspur, Tahsil and District Bilaspur, Chhattisgarh
2. Ashok Agrawal S/o Jagmohan Agrawal, aged about 48 years, R/o Jain Mandir Road, Kranti Nagar, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh
3. Ramavtar Agrawal, aged about 55 years, R/o Vidya Nagar Agrawal Bhawan, P.S. Tarbahar, Tahsil and District Bilaspur, Chhattisgarh
4. Niranjana Jindal R/o Jindal House, Narmadapara Raipur, Tahsil and District Raipur, Chhattisgarh
5. Aman Agrawal S/o Ashok Agrawal, R/o Jain Mandir Road, Kranti Nagar Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

---- Respondents

For Petitioners : Shri Pravin Kumar Tulsyan, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****01/02/2018**

The present petition has been filed against the order dated 16.05.2017 passed by the 2nd Additional District Judge, Bilaspur in C.S. No.

145A/2015. Vide the impugned order, the Court below has rejected the application under Order 17 Rule 1 of CPC which was filed seeking time to produce witness before the trial Court for cross-examination.

2. A perusal of the record would show that the reason for rejection of the said application was on the ground that in spite of sufficient opportunities having been granted to the petitioners on earlier occasions, they did not examine their witness and therefore, the Court found the application to be frivolous.

3. Given the entire facts and circumstances of the case, particularly the reason that the particular witness in the instant case has already filed an affidavit under Order 18 Rule 4 of CPC and he has only to be cross-examined, this Court is of the opinion that ends of justice would meet if the petitioners are granted one more opportunity for producing the said witness.

4. Counsel appearing for the petitioners undertakes that he shall keep the witness present on the next date for the defendants to cross-examine, if not, he also undertakes to keep the witness present on any other date also for his cross-examination. He submits that the next date of hearing given by the trial Court is 23rd of February, 2018, on which date, the matter has been fixed for cross-examination of defendants. He further submits that on the part of the defendants, none of the evidence has been completed till now and therefore, no prejudice as such would be caused to the right of the defendants.

5. Given the facts and circumstances of the case, it is directed that the petitioners herein shall keep the witness namely Santosh Singh whose affidavit has already been filed under Order 18 Rule 4 of CPC present before the Court below on the next date of hearing.

6. It is made clear that in the event the said witness is present on the said date, the defendants shall be at liberty to cross-examine the witness, if

not, the Court may grant the defendants a date for cross-examination on which date also the said witness shall be bound to remain present before the Court below. No further adjournment under any circumstance should be granted to the petitioners for keeping the witness present.

7. With the aforesaid observation/direction, the present writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
JUDGE