

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 1053 of 2018**

Vinay Sharma S/o. Jagatpal Sharma, Aged About 39 Years R/o. Guru Vihar Colony, Sarkanda, Near Muktidham, Bilaspur, Tahsil And District Bilaspur Chhattisgarh. At Present R/o. Rohini Vihar, 36 Bilaspur, District Bilaspur Chhattisgarh

---- Petitioner /Plaintiff

Versus

1. Firanta Ram S/o Bhuwan Lal, Caste – Bargah, Aged About 67 Years R/o. Village Ramtala, Post Sendari, Tahsil And District Bilaspur Chhattisgarh
2. State Of Chhattisgarh Through Collector Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Smt. Babita Dewangan, W/o. Shashikant Dewangan, Aged About 32 Years R/o. Vijayapuram Colony, Phase-2, In Front Of Science College, Seepat Road, Police Station Sarkanda, Bilaspur, Tahsil And District Bilaspur Chhattisgarh
4. Shashikant Dewangan S/o Ramkrishna Dewangan Aged About 35 Years Occupation Advocate, R/o. Vijayapuram Colony, Phase-2, In Front Of Science College, Seepat Road, Police Station Sarkanda, Bilaspur, Tahsil And District Bilaspur Chhattisgarh

---- Respondents/Defendants

For Petitioner/Plaintiff : Mr. Manoj Paranjpe, Advocate.
 For Respondent No.2/State: Mr. Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/12/18

1. By the impugned order dated 31.10.2018, the petitioner/plaintiff opportunity to lead further evidence of Arvind Shukla and two other official witnesses has been closed by the trial Court against which this writ petition has been preferred.

2. Learned counsel for the petitioner would submit that the trial Court is absolutely unjustified in closing the right of plaintiff to adduce evidence and therefore, the impugned order be set aside.

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

4. From careful perusal it appears that one of the plaintiff's witness evidence affidavit of Arvind Shukla under Order 18 Rule 4 of CPC has not filed. Likewise, the trial Court held that the two official witnesses - Bank Manager of Allahabad Bank, Idgah Chowk and Deputy Registrar of Registry Office proposed to be examined on behalf of plaintiff are not required to be examined.

5. It is for the parties to the suit to decide if a particular witness is a necessary witness to be examined and the trial Court cannot held that such witnesses could not be examined. Similarly, on the ground that the case is pending for more than five years, the merit cannot be compromised. As such, the impugned order is hereby set aside. It is directed that plaintiff will file affidavit evidence of Arvind Shukla and he will be examined on 14.12.2018, the date fixed for hearing and the remaining two official witnesses will be summoned and they will be examined and cross-examined on the date given by the trial Court subject to payment of cost of Rs. 5,000/- to the defendant No. 1. The defendants would also be at liberty to move an application for modification of the order, if aggrieved.

7. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Certified copy by tomorrow.

SD/-

(Sanjay K. Agrawal)
Judge