

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**WP227 No. 27 of 2019**

Shatrughan Prasad Swarnkar S/o Late Rambali Prasad Soni Aged About 54 Years Caste Sonar, Occupation- Agriculture And Trade, R/o P.S. Tahsil And Post- In Front Of Junagaddi, Seth Basantlal Marg Ambikapur, District- Surguja, Chhattisgarh.

---- **Petitioner**

**Versus**

1. Dr. Laxman Prasad Soni S/o Rambali Prasad Soni Aged About 60 Years Caste Sonar, Occupation-Doctor, R/o Darripara In Front Of Sunita X-Ray Clinic, Post Office Road Ambikapur, Disrtict- Ambikapur, Chhattisgarh.
2. Bharat Lal Soni S/o Late Rambali Prasad Soni Aged About 58 Years Caste Sonar, Occupation Trade R/o P.S. And Tahsil And Post In Front Of Junagadari, Seth Basantlal Marg Ambikapur, District- Ambikapur, Chhattisgarh.
3. Smt. Jyoti Soni W/o Bharat Lal Soni R/o P.S. And Tahsil And Post In Front Of Junagadari, Seth Basantlal Marg Ambikapur, Disrtict- Ambikapur, Chhattisgarh.
4. Chotelal Agrawal S/o Nawarng Lal Agrawal Aged About 38 Years.
5. Subhash Agrawal S/o Nawarng Lal Agrawal Aged About 40 Years.
6. Dharmpal Agrawal S/o Nawarng Lal Agrawal Aged About 40 Years.
7. Smt. Savitri Agrawal W/o Rambilas Agrawal Aged About 62 Years.  
Respondent Nos.4 to 7 are Caste. Agrawal, R/o City Ambikapur Agrsen Ward Ps And Tahsil Ambikapur, District- Surguja, Chhattisgarh.
8. State Of Chhattisgarh Through District- Magistrate, Surguja- Ambikapur, Chhattisgarh.

---**Respondents**

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| For Petitioner  | : | Ms. Sharmila Singhai, Advocate. |
| For Respondents | : | Ms. Priyanka Mehta, Advocate.   |

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**15/01/2019**

1. Learned counsel for the petitioner submits that by the impugned order dated 15.10.2018 the trial Court illegally rejected the application filed under Order 16 Rule 1 of C.P.C for examining the attesting witness namely Shri Chandra Prakash Garg, which is necessary for proper disposal of the suit.
2. On the other hand, learned counsel for the respondents would support the impugned order.

3. I have heard learned counsel for the parties and perused the impugned order.
4. The plaintiff has set up a case on the basis of the Will dated 27.01.1984. Chandra Prakash Garg is one of the attesting witnesses of the Will and his examination is necessary for proper disposal of the suit, therefore, permission is allowed to examine the attesting witness and the impugned order is hereby set aside, subject to cost of Rs.2,500/- by defendant No.1. Plaintiff will keep present the attesting witness namely Chandra Prakash Garg on the next date of hearing ie. 22.01.2019 for examination. No further opportunity will be given to examine the said witness unless it is inevitable.
5. With the aforesaid observation and direction, this writ petition is disposed off. No order as to cost(s).
6. A copy of this order be sent to the concerned trial Court directly and through Email and Fax.

**Sd /-**

**(Sanjay K. Agrawal)**  
Judge