

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 200 of 2019**

Sanjay Pandey @ Kripa-Shanker, S/o Late Shri Madan-Gopal Pandey, aged :
48 years, R/o Shailendra Nagar, Raipur (C.G.)

----Petitioner/plaintiff

Versus

1. Vijendra Bhatnagar, S/o Shri Ramsaran Bhatnagar, Aged 47 years, R/o
Kaali-Badi, Near Hanuman Nagar, Tehsil & District : Raipur (C.G.)

2. State of Chhattisgarh, Through Collector, Raipur (C.G.)

---- Respondents

For Petitioner : Shri Kshitij Sharma, Advocate.

For Respondent No. 2 : Shri S.K. Agrawal, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/03/2019

(1) By the impugned order dated 01.03.2019, plaintiff's opportunity to examine himself and one more witness namely Anil Kumar Pandey has been closed.

(2) Learned counsel appearing for the petitioner/plaintiff would submit that though affidavit under Order 18 Rule 4 of the Code of Civil Procedure of aforesaid both the witnesses have been filed and cross examination of plaintiff (PW-1) has already been started but he could not remain present before the trial Court on 1.3.2019 and his opportunity to examine himself and another witness – Anil Kumar Pandey been closed, whereas earlier twenty adjournments sought were based on valid and sufficient grounds and, therefore, that cannot be made basis for closing opportunity of plaintiff to lead further evidence, as on 01.03.2019, there was sufficient cause for adjournment.

(3) I have heard learned counsel appearing for the petitioner and considered his submissions and went through the record with utmost circumspection.

(4) Taking into consideration the fact that the earlier adjournments granted to the petitioner/plaintiff were based on sufficient and valid grounds; the affidavit under Order 18 Rule 4 of the Code of Civil Procedure of the plaintiff himself and one more witness have already been filed; and since the civil suit is for declaration of title and permanent injunction and it has to be decided on merits; the plaintiff is allowed to examine himself and another witness – Anil Kumar Pandey within a period of one week from today subject to payment of cost of Rs. 5,000/- to respondent No. 1/defendant. So far as the plaintiff's prayer for examining one more witness i.e. Branch Manager, State Bank of Indore is concerned, if he files application in this regard, that will be considered by the trial Court in accordance with law. It is made clear that on the next date of hearing plaintiff will keep himself and one more witness Anil Kumar Pandey present to lead evidence before the trial Court.

(5) Accordingly, the writ petition is disposed off with above-stated observation reserving liberty in favour of respondents to file application for modification, if any.

(6) Copy of the order be sent to the trial Court for compliance and needful through E-mail / Fax by today itself.

Certified copy, today.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

