

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP227 No. 691 of 2019**

Vikram Pal Sahgal, Son of Khairatilal Sahgal, Aged about 55 years,
Resident of Pt. Jawaharlal Nehru Ward, Ward No. 29 near gate,
Tahsil Murwara, District Katni, Madhya Pradesh.

---Petitioner/Judgment Debtor**Versus**

Hakimuddin @ Hakim Chouhan, Son of Late Inamuddin, Aged about
56 years, Proprietor Chouhan Line Depo, Santi Choura, Ganjpara,
Durg, District Durg, Chhattisgarh.

---- Respondent/Decree Holder

For Petitioner : Mr. Rakesh Pandey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****11/09/2019**

1. By the impugned order dated 05/08/2019, in an application filed by the petitioner/judgment-debtor under Order 9 Rule 13 of the CPC his opportunity to lead evidence has been closed against which this writ petition under Article 227 of the Constitution of India has been preferred by him.
2. Mr. Rakesh Pandey, learned counsel appearing for the petitioner herein would submit that petitioner/judgment-debtor was undergoing dialysis on 05/08/2019 when the case was called up for hearing, as such, he was asked by the Doctors not to travel having undergone dialysis, therefore, he was unable to appear before the Court and could not produce his witnesses as well and his opportunity to lead

evidence was closed by the trial Court. Therefore, the impugned order be set aside and the petitioner herein be given an opportunity to lead evidence.

3. I have heard learned counsel for the petitioner at length.
4. Considering the fact that the petitioner/judgment-debtor had undergone dialysis immediately prior to the date of hearing i.e. 05/08/2019 and pursuant to Doctor's advice, he could not undertake travelling and appear before the Court on the said date to lead evidence due to which his opportunity to lead evidence was closed, which constitutes sufficient cause for not appearing before the trial Court for recording evidence on 05/08/2019, it would be expedient to grant another opportunity to the petitioner/judgment-debtor to lead evidence subject to payment of cost of Rs. 2,000/- to the respondent/decreed-holder. The petitioner/judgment-debtor will keep himself and his witnesses present to lead evidence before the trial Court on 05/10/2019 which is the next date of hearing that has already been fixed by the trial Court.
5. With the aforesaid observations, this writ petition stands disposed of. However, the respondent/judgment-debtor is at liberty to file suitable application for modification, if any.
6. A copy of this order be sent to the concerned trial Court by e-mail/fax for complying with the aforesaid order.

Sd/-
(Sanjay K. Agrawal)
Judge