

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 855 of 2019

Rajvinder Singh Beli, S/o. Late Shri Harchand Singh Beli, Aged About 50 Years, R/o. Shanti Nagar , Ring Road No. 2, Near Rani Sati Mandir, Bilaspur , Tahsil and District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh Shashkiya Karmchari Grah Nirman Samiti, Bilaspur Through : Secretary Shri Chandrakant Hela, R/o. Near Brihaspati Bazar, Rajendra Nagar, Bilaspur, Tahsil and District Bilaspur Chhattisgarh.
2. Chandrakant Hela, Aged About 50 Years, R/o. Near Brihaspati Bazar, Rajendra Nagar Bilaspur, Tahsil and District Bilaspur Chhattisgarh.
3. Rajesh Verma, Aged About 40 Years, R/o. Gondpara, Infront Of CIMS Bilaspur, Tahsil and District Bilaspur Chhattisgarh.
4. State of Chhattisgarh, Through : Collector Bilaspur Chhattisgarh.

-----Respondents

For Petitioner : Mr. Rajeev Bharat, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/11/2019

1. This petition has been brought being aggrieved with the order dated 10.10.2019, passed by the learned Civil Judge Class-II, Takhatpur, District – Bilaspur in Civil Suit No.27-A/2016, rejecting the application filed by the petitioner under Order 26 Rule 4 read with Section 151 of C.P.C.
2. It is submitted that the petitioner prayed in the application for examination of the witness by appointment of Commissioner for the reason that the witness resides beyond the jurisdiction of the Court concerned i.e. in Village Rode, District – Moga (Punjab). The Court

below has without assigning any specific reason, has rejected the application, which is arbitrary and unsustainable.

3. State counsel appearing for the respondent No.4 makes formal objection.
4. On perusal of the provisions of Order 26 Rule 4 of C.P.C. it is found that if a witness is a resident of a place beyond the jurisdiction of the Court concerned, then the Court can order to examine the witness by commission. The provision further does not make a requirement of giving any other reason. Therefore, it appears that the trial Court has without considering on the true spirit of the provisions Order 26 Rule 4 of C.P.C. has passed the order impugned, which is not sustainable. Hence, the petition is disposed off at motion stage without notice to the respondents.
5. The impugned order dated 10.10.2019, passed by the learned Civil Judge Class-II, Takhatpur, District – Bilaspur in Civil Suit No.27-A/2016 is set-aside and trial Court is directed to reconsider the application of the petitioner strictly in accordance with the provisions under Order 26 Rule 4 of C.P.C. and pass appropriate order.

(Rajendra Chandra Singh Samant)
Judge