

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 991 of 2019

Ganesh Ram Dewangan, S/o. Late Banshi Lal Dewangan, Aged About 55 Years, Presently Resided At - 112 Punam Colony, Ward No. 17, Rajnandgaon, Chhattisgarh. Permanent Address- Tikaripara, Ward No. 12, Gandayee, Tahsil Chhuikhadan, District Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

1. Ved Prakash, S/o. Shri Hariram Dewangan, Aged About 40 Years,
 2. Jantri Bai, W/o. Shri Hariram Dewangan, Aged About 68 Years,
- Both are R/o - Tikaripara, Ward No. 15, Gandayee, Tahsil- Chhuikhadan, District Rajnandgaon, Chhattisgarh.

-----Respondents

For Petitioner : Mr. Kshitij Sharma, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/12/2019

1. Challenge in this petition is to the order dated 29.11.2019, passed by the Additional Sessions Judge, Khairagarh, District – Rajnandgaon in Civil Suit No.3-A/2014, by which the application filed by the plaintiff/petitioner under Order 18 Rule 17 read with Section 151 of C.P.C. has been dismissed.
2. It is submitted by the learned counsel for the petitioner that the petitioner is the plaintiff in the pending Civil Suit No.3-A/2014. At the end of the plaintiff's evidence, the respondents/defendants filed an application under Order 8 Rule 3 for taking documents on record, which was allowed on the same day i.e. 24.10.2019 without

affording any opportunity to the plaintiff/petitioner. Subsequent to which, the petitioner filed an application under Order 7 Rule 14 (3) of C.P.C. praying for taking additional documents on record, which was allowed by the impugned order making a mention that documents presented are essential for the adjudication of the case. Another application filed by the plaintiff/petitioner under Order 18 Rule 17 read with Section 151 of C.P.C. making prayer for reexamination to exhibit the documents filed by him has been though considered, but not allowed. On one hand, the learned Court below has allowed that additional documents filed by the petitioner to be taken on record, stating that the documents are essential for adjudication of the case and on the other hand, the petitioner has been denied opportunity to prove the same, only for the reason that trial will get delayed. Therefore, closure of opportunity of the petitioner will cause serious injustice to him. Hence, the impugned order is erroneous, which may be set-aside.

3. Perused the impugned order and the other documents filed along with the petition.
4. Considering that the learned trial Court has allowed the petitioner to file additional documents and the same have been taken on record. If the, documents so presented by the petitioner are not allowed to be proved by him, then the order taking documents on record will serve no purpose. Therefore, the opportunity that has been given in part that should be given in full. Hence, this Court finds the impugned order erroneous and against the principles of law.

5. Accordingly, the petition is disposed off at motion stage. The impugned order dated 29.11.2019 to the extent dismissing the application under Order 18 Rule 17 read with Section 151 of C.P.C. is set-aside and the same is allowed by this Court with direction to the learned Court below to afford opportunity to the petitioner to examine himself only for the purpose of proving the additional documents filed by him.
6. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram