

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 1005 of 2019

- Vikram Bhatt, S/o Shri Chanakya Bhatt, Aged About 30 Years, R/o Nahar Para, Station Road, District-Raipur, Chhattisgarh.....Defendant.

---- Petitioner

Versus

1. Kaji Abdul Gyas Khan, S/o Md. Abdul Gafar Khan, Aged About 52 Years R/o Peti Line, Gol Bazar, Raipur, District-Raipur, Chhattisgarh....Plaintiff.
2. Md. Abdul Riyaz Khan, S/o Md. Abdul Gafar Khan, Aged About 48 Years R/o Peti Line, Gol Bazar, Raipur, District-Raipur Chhattisgarh....Plaintiff.
3. Md. Abdul Razzak Khan, S/o. Md. Abdul Gafar Khan, Aged About 46 Years R/o Peti Line, Gol Bazar, Raipur, District-Raipur Chhattisgarh....Plaintiff.
4. Md. Abdul Rauf Khan, S/o Md. Abdul Gafar Khan, Aged About 40 Years, R/o Peti Line, Gol Bazar, Raipur, District-Raipur Chhattisgarh....Plaintiff.

---- Respondent

For petitioner	:	Mr. Vivek Mishra, Advocate.
For respondent	:	None.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

18/02/2020

Heard.

1. This petition has been brought being aggrieved by the order dated 24.09.2019 passed by the 10th Additional District Judge, Raipur, District- Raipur, by which the application filed by the petitioner under Section 151 of CPC has been rejected.
2. It is submitted that the petitioner was unable to give appearance before the Court because of the death in the family and in the meantime the

right of the defendant/petitioner to file written statement has been closed. On coming to know about the said order, the petitioner immediately filed an application under Section 151 of CPC, along with written statement, and prayed that the application be allowed on the grounds mentioned therein and the written statement be taken on record. The learned trial Court has not appreciated the grounds presented by the petitioner in proper perspective and rejected the application in an erroneous and arbitrary manner. Hence, it is prayed that the impugned order be set aside and the petitioner be granted an opportunity to file his written statement and contest the suit.

3. Although notice has been served on the respondents, there is no representation on their behalf, hence, there is no opposition to this petition.
4. Justice in the case demands that dispute between the parties should be put to an end by complete adjudication on all issues involved and for that purpose it would be appropriate that the opposite party should also have opportunity to present his case. Therefore, for this reason, I deem it just and proper to allow one more opportunity to the petitioner to file written statement and to resist the suit.
5. Accordingly, the petition is allowed at the motion stage, the impugned order is set aside and the petitioner is granted an opportunity to file written statement within a period of 30 days from today. On filing written statement by the petitioner within the stipulated period fixed by this Court, the trial Court shall take the same on record and proceed further in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha