

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 121 of 2018

1. Rajendra Kumar, S/o Shri Kishan Lal Taram, Aged About 20 Years, R/o Dharampur Camp, Ward No. 4, Kirandul, District-Dantewada, Chhattisgarh.
2. Ku. Pramila, D/o Shri Kishan Lal Taram, Aged About 26 Years, R/o Dharampur Camp, Ward No. 4, Kirandul, District Dantewada, Chhattisgarh.

---- Petitioners

Versus

1. Kishan Lal Taram S/o Late Shri Goverdhan Lal Taram, Aged About 60 Years Occupation Junior Officer (U.E.C.B. 0778), N.M.D.C. Limited, Bailadila Iron Ore Mine, Kirandul, District Dantewada, Chhattisgarh.
2. Smt. Mathura Bai, W/o Shri Kishan Lal Taram, Aged About 48 Years, R/o Dharampur Camp, Ward No. 4, Kirandul, District-Dantewada, Chhattisgarh.
3. The General Manager, N.M.D.C. Limited, Bailadila Iron Ore Mine, Kirandul Complex, District-Dantewada, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. B.P. Singh, Advocate.
For Respondent	:	Mr. Shrawan Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on board

12/08/2021

1. This petition has been brought being aggrieved by the orders dated 17.5.2017 and 22.11.2017 passed by the trial Court in Civil Suit No.1A/2015 pending before the Court of Civil Judge Class-II, Bacheli,

District-Dantewada by which the prayer of the petitioners/plaintiffs for opportunity to produce witnesses has been dismissed.

2. It is submitted by the counsel for petitioner, that the case was fixed for plaintiffs evidence on 17.5.2017 on which date the petitioners filed the affidavit under Order 18 Rule 4 CPC of the plaintiff Pramila and prayed for time to file affidavits under Order 18 Rule 4 CPC of the other witnesses. The learned trial Court has closed the opportunity of the petitioners for filing affidavits of other witnesses and fixed the case for plaintiffs evidence on the next date. The petitioners then filed another application under Section 151 CPC praying to recall the order dated 17.5.2017 along with the affidavits of the other witnesses under Order 18 Rule 4 CPC, but the learned trial Court has rejected this application by order dated 17.5.2017, which is impugned. It is further submitted that till date case is at the stage of recording of plaintiffs evidence itself. The learned trial Court should have taken liberal view and granted opportunity to the petitioners, in case the petitioners are not granted such opportunity, the plaintiffs will suffer injustice, therefore, it is prayed that the petition be allowed and opportunity be granted to the petitioners.
3. Learned counsel for the respondent opposes the petition and submits that the trial Court cannot exercise the power under Section 151 CPC in granting opportunity to the petitioner. The learned trial Court has not committed any error in passing the orders dated 17.05.2017 and 22.11.2017, therefore, the petition be dismissed.
4. Considered on the submissions. I am of this view that the learned trial Court should have taken liberal approach and granted opportunity to the petitioners, therefore, the petition is allowed. The impugned orders dated 17.5.2017 and 22.11.2017 both are set aside. The learned trial

Court is directed to grant opportunity to the petitioner for producing evidence of the witnesses whose affidavits are already filed under Order 18 Rule 4 CPC and proceed with trial in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha