

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 286 of 2020

Chandra Prakash Awasthi S/o Shri Ram Ji Lal Awasthi Aged About 61 Years R/o L/5, Dr. Chetrapal Road, Vinoba Nagar, Tehsil And District- Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. Rita Pandey W/o Ramesh Chandra Pandey Aged About 43 Years R/o Geetanjali City, Phase 2, Behatarai Road, Tehsil And District- Bilaspur, Chhattisgarh.
2. Ramesh Chandra Pandey S/o Late Ramashankar Pandey Aged About 65 Years R/o 140 Geetanjali City, Phase 2, Behatarai Road, Tehsil And District- Bilaspur, Chhattisgarh.
3. Geeta Chouksey W/o K.K. Chouksey, Aged About 50 Years R/o Gevra S.E.C.L., Tehsil And District- Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Anup Majumdar, Advocate.
For the Respondents	: Shri A.R.K. Rao, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

8-3-2021

Heard.

1. This petition under Article 227 of the Constitution of India has been brought seeking quashment of the order dated 1.3.2019 (Annexure-P/3) and granting relief to the petitioner.
2. It is the submission of counsel for the petitioner that at the stage of the plaintiff's evidence, an application was filed by the petitioner praying for opportunity to get examined the disputed document through an expert, which has been dismissed by the learned trial Court only for the reason that the civil suit is pending since about five years and the opportunity of the plaintiff for producing evidence was also closed. It is also submitted

that if the petitioner/ plaintiff is not given such opportunity, he may suffer irreparable loss, therefore, the prayer in the petition may be allowed.

3. Learned counsel for the respondents opposes the submissions and submits that the petitioner had sufficient opportunities for producing evidence in the trial. The prayer made by the petitioner's side is only for the purpose of delaying the trial in the civil suit, therefore, learned trial Court has correctly passed the order and rejected the application. Hence, the petition be dismissed.
4. Considered the submissions. Although, the civil suit had been pending since long but from perusal of the order dated 1.3.2019, it is evident that it was on the same day the plaintiff's witness was examined and when the application was filed by the petitioner praying for expert examination of the disputed document, the application was dismissed and also the petitioner's opportunity of plaintiff's evidence was closed.
5. Considering that there may have been delay in filing of the application for expert examination of document but at present, the respondents/ defendants have not entered into the stage of defence evidence, hence, as a last opportunity one chance may have been given to the petitioner's side as the examination of disputed document by expert appears to be necessary for the resolution of dispute between the parties. Hence, the petition is disposed off at motion stage. The impugned order is set aside and the petitioner is granted one opportunity. Learned trial Court is directed to provide one opportunity to the petitioner for getting the disputed document examined by a handwriting expert. The time limit for submission of expert report is fixed by this Court which shall be a 60 days starting from 18.3.2021,

which is the next date of hearing in the trial Court. It is made clear that no further extension shall be given to the petitioner/ plaintiff subsequent to expiry of the time limit set by this Court.

6. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi