

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 413 of 2019

Gopal Agrawal, S/o. Shri Sureshchand Agrawal, aged about 32 years, R/o. Near Nandai Naka, Mohra Balod Road, District Rajnandgaon Chhattisgarh. Through Brother-in-law, Ravi Singhal, S/o. Shri Kunj Bihari Singhal, aged about 40 years, R/o. House No. 32, Choubey Colony, College Road, Raipur Chhattisgarh.

---- Petitioner

Versus

Rajeev Gupta, S/o. Brijkishore Gupta, aged about 49 years, R/o. Kailash Nagar, Rajnandgaon, District Rajnandgaon Chhattisgarh. Current Address Ridhi Sidhi Colony, Kourinbhata, Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Respondent

For Petitioner	: Mr. Awadh Tripathi, Advocate
For Respondent	: Mr. Rakesh Thakur, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

06/08/2021

1. The present petition under Article 227 of the Constitution of India has been brought being aggrieved by the order dated 10.05.2019, passed by the trial Court in Civil Suit No.26-B/2014 by which, the opportunity of producing evidence of the petitioner/defendant has been closed.
2. It is submitted by the learned counsel for the petitioner that the petitioner has suffered an accident and he is undergoing treatment since 25.07.2018. The medical condition of the petitioner is still continuing and he is unable to appear in the Court and depose, therefore, the learned trial Court should have considered the condition of the petitioner and should have been granted opportunity for bringing his evidence in the trial.

3. Counsel for the respondent opposes the petition and the submission made in this respect. It is submitted that the trial Court has given sufficient opportunity to the petitioner/defendant for producing evidence, therefore, no interference can be made in the impugned order. It is prayed that the petition may be dismissed.
4. Considered on the submissions and the documents filed by the petitioner, which confirms that the petitioner has suffered an accident and he has undergone treatment for head injury. Recent certificate has been filed dated 05.01.2021 with respect to the petitioner in which, he has been shown as having disability of 87%.
5. After considering on the submissions and perusing the documents, this petition is disposed off. The learned trial Court is directed to grant one opportunity to the petitioner/defendant, for which the petitioner counsel shall have liberty to file an application for examination of the petitioner on commission, in case the petitioner is in position to depose and in case the petitioner is fully incapacitated as submitted by the counsel for the petitioner, then the Court may proceed in the suit in accordance with the provision under Order 32 of C.P.C. Looking to the length of pendency of the suit, the trial Court is also directed to dispose of the case as early as possible.
6. Accordingly, this petition is disposed off with the observations made here-in-above.

Sd/-
(Rajendra Chandra Singh Samant)
Judge