

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 610 of 2021

1. Rajkumar Malghani (dead) through Legal Representatives:
2. Smt. Deepa Malghani, W/o Late Rajkumar Malghani, Aged About 47 Years, R/o Khaparganj, Bilaspur, Tahsil and District Bilaspur Chhattisgarh.
3. Harsh Malghani, S/o Late Rajkumar Malghani, Aged About 22 Years R/o Khaparganj, Bilaspur, Tahsil and District Bilaspur Chhattisgarh.

---- Petitioners

Versus

1. Ajit Arvind Varvandkar, S/o Shri AD Varvandkar, Aged About 42 Years, R/o Maruti Vihar, Raipur, Tahsil and District Raipur Chhattisgarh.
2. Agney Jaiswal, S/o Surendra Jaiswal, Aged About 50 Years, R/o Ambikapur, Tahsil and District Ambikapur (CG) (General Power of Attorney of defendant No. 1)
3. Smt. Naina Mulkalwar, W/o Suresh Mulkalwar, Aged About 56 Years, R/o Dayalband, Bilaspur, Tahsil and District-Bilaspur, Chhattisgarh.
4. State of Chhattisgarh Through District-Magistrare, Bilaspur Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Vivek Kumar Shrivastava, Advocate.
For State	:	Mr. Ashish Tiwari, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on board

09/11/2021

Heard.

1. This petition has been brought being aggrieved by the order dated 26.7.2021 & 14.9.2021 by which the opportunity of the petitioners/plaintiffs for producing plaintiffs evidence in the civil suit has been closed by the learned Trial Court.

2. It is submitted by the counsel for petitioner, that the date of 26.7.2021 was fixed for plaintiffs evidence when the petitioners filed affidavit of their witnesses under Order 18 Rule 4 of CPC and they also filed application under Section 151 CPC seeking permission to make payment of the deficit Court fees. The learned Trial Court made observations in the impugned order, that number of opportunities have been given for plaintiff evidence and, therefore, without giving any opportunity of hearing to the petitioners has closed the plaintiffs evidence. The petitioners then moved another application under Section 151 CPC praying to grant opportunity for producing evidence which has also been dismissed by impugned order dated 14.9.2021. It is submitted that the impugned order passed by the trial Court is arbitrary and illegal, therefore, unsustainable, hence, appropriate orders be passed.
3. Learned State counsel representing respondent No.4 makes formal objection.
4. After considering on the submissions, this petition is disposed off at motion stage. The impugned order dated 26.7.2021 & 14.9.2021 directing closure of the opportunity of evidence of the petitioners/plaintiffs, is hereby set aside. The learned Trial Court is directed to grant one opportunity to the petitioners/plaintiffs for producing their evidence and examining their witness in the trial Court, then continue with the trial and conclude the same in accordance with law.
5. With these observations, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge