



2026:CGHC:19051

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 267 of 2023

1 - Anand Kumar Pawar S/o Devi Prasad Pawar, Aged About 52 Years, R/o Village-Sukada, Post Office Gerra, Via Saraipali, District- Mahasamund, Chhattisgarh. Present Address- Bheriya Chowk, Near Lakhmara Road Check Post, Padampur, Tahsil - Padampur, District - Bargad, Oddisa.

... **Petitioner**

versus

1 - Santosh Mishra S/o Shri Girdhari Lal Mishra, Aged About 62 Years, R/o Village-Sukada, Post Office Gerra, Via Saraipali, District- Mahasamund, Chhattisgarh, Present Address - Padampur Road, Near Kutela Chowk Jognipali, Via- Saraipali, Mahasamund, Chhattisgarh.

... **Respondent**

(Cause-title taken from Case Information System)

For Petitioner : Mr. Ravindra Sharma, Advocate.

For Respondent : None, though served.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on Board

24-04-2026

1. Present is a writ petition under Article 227 of the Constitution of India filed by the petitioner against the impugned order dated 04-03-2023 passed by learned First Additional District Judge, Saraipali, District Mahasamund in Civil Suit No.1A/2022 whereby the application filed by the petitioner under Order 8 Rule 1A(3) of the CPC dated 27-06-2022 and three other applications filed by the defendant/petitioner under Order 8 Rule 1A(3) of the CPC dated 01-08-2022, 13-09-2022 and 06-12-2022 and also the application under Section 65B of the Indian Evidence Act, 1872 have been rejected.

2. It is noticed here that five applications have been rejected by the impugned

order dated 04-03-2023 and the petitioner has challenged the orders passed on those five applications in the same petition without paying the sufficient court fees. When this Court asked the petitioner about the same he would submit that he would press only the application under Order 8 Rule 1A(3) of the CPC filed on 27-06-2022 before the learned trial Court and not pressing the challenge to the extent of rejection of the application under Order 8 Rule 1A(3) of the CPC dated 06-12-2022, application under Order 8 Rule 1A(3) of the CPC dated 01-08-2022, application under Order 8 Rule 1A(3) of the CPC dated 13-09-2022 and the application of Section 65 B of the Indian Evidence Act, 1872.

3. Learned counsel for the petitioner would submit that the respondent is the counsel appointed by the petitioner in his various family litigations before the various courts for which the petitioner executed vakalatnama and documents signed which were prepared by the respondent. The petitioner being the litigant was under impression that the respondent, being his counsel, would take care of his litigations before the various courts, however he fraudulently get an agreement executed to sale the land of the petitioner. The said agreement was said to be executed on 24-11-2003 for total consideration of Rs.80,000/- with respect to his lands total area 1.10 hectare situated at Village Sukada, P.H. No.16, Tahsil Saraipali, District Mahasamund. He ultimately prosecuted a suit for specific performance of contract before the learned Second Additional District Judge Mahasamund vide Civil Suit No.6A/2006. The said civil suit was decreed in his favour vide judgment and decree dated 19-08-2008. the said judgment and decree was challenged by the petitioner before this Court in First Appeal No.184/2008 which was decided on 07-04-2022 and the coordinate Bench of this Court set aside the judgment and decree passed by the learned trial Court and remanded the matter back for its fresh consideration after providing the defendant, i.e., the petitioner to lead evidence. While remitting back the matter, the coordinate Bench of this court has also granted liberty to the petitioner to file all the documents to substantiate his claim before the trial Court and the plaintiff shall also be at liberty to rebut the documentary evidence.

4. He would next submit that pursuant to the judgment dated 07-04-2022 passed in First Appeal No 184/2008 the petitioner filed his application under Order 8 Rule 1(3) of the CPC before the learned trial Court on 27-06-2022 along with the documents which were related to the document executed with respect to the litigation and representation by the plaintiff in the said litigation on behalf of the petitioner. The said application dated 27-06-2022 filed by the petitioner has been rejected by the learned trial Court by the impugned order holding that the petitioner could not demonstrate its relevancy and admissibility and since the respondent was his Advocate and the documents relates to some other case, it is not relevant to facts of the present case which is under challenge in the present writ petition. He would further submit that it is the case of the petitioner/defendant that the defendant was under assurance that the plaintiff will take care of his litigation for which he made various signatures at various places and various papers and he was having trust upon the plaintiff, but he by misusing his trust, get the forged agreement prepared and prosecuted the civil suit, therefore, to prove the relation of the Advocate and Client, the documents are very relevant. He would also submit that with respect to the conversation between them he also prepared the transcript and get it transferred in the form of CD which has also been filed along with the application. Looking to the genuineness of these documents and relevancy to the defence of the petitioner these documents ought be allowed to be taken on record by the learned trial Court which has been rejected. He would also submit that the learned appellate Court has also granted liberty to the defendant to produce all the documents, yet the documents have not been taken on record. Therefore, the impugned order suffers from perversity and illegality and the same is liable to be set aside.

5. I have heard learned counsel for the petitioner and perused the documents annexed with the petition.

6. From perusal of the plaint (Annexure-P/2) it transpires that the petitioner is defendant before the learned trial Court and the respondent is prosecuting the suit

for specific performance of the contract with respect to sale agreement of the land total 1.10 hectare of Khasra No.165, 189, 237 and 238 situated at Village Sukada, Tahsil Saraipali, District Mahasamund. It is pleaded in the plaint that the defendant has executed an agreement on 24-11-2003 to sale his land for total consideration of Rs.80,000/- out of which Rs.60,000/- has been paid as advance and the remaining amount was to be paid at the time of registration of the sale deed. The defendant is denying the sale agreement in his written statement Ex.-P/3 with the pleading that the plaintiff is legal advisor of the defendant and his father and he was Advocate representing them in various litigation and various courts. The relation between them was good as the plaintiff was their Advocate. He specifically denied the execution of the agreement dated 24-11-2003 and receiving any advance amount from him. It is pleaded that the defendant borrowed an amount of Rs.50,000/- from the plaintiff along with interest at the rate of 10% monthly which was to be repaid within two months and as a security of the said transaction the plaintiff obtained his signature over a blank stamp paper and has got executed the agreement to sale. Since the plaintiff was his Advocate he was having trust upon him.

7. Earlier the suit filed by the plaintiff was decreed by the learned trial Court vide its judgment and decree dated 19-08-2008 and the specific performance of the contract was ordered in favour of the plaintiff. The judgment and decree passed by the learned trial Court was challenged by the defendant in First Appeal No.184/2008 before this Court and vide judgment dated 07-04-2022 (Annexure-P/4) the appeal was allowed, the judgment and decree dated 19-08-2008 was set aside and the matter was remitted back to the learned trial Court for deciding the case afresh by giving liberty to the defendant to lead evidence. Para 11 of the judgment dated 07-04-2022 passed in First Appeal No.184/2008 is relevant and the same reads as under:-

“11. Accordingly, the judgment and decree is set aside and the matter is remitted back to the learned trial Court to decide the case afresh by giving opportunity to the defendant to lead evidence. The plaintiff

shall be at liberty to rebut the evidence brought on record by the defendant, if any. Learned counsel for the appellant has also filed an application under Order 41 Rule 27 of the CPC. Since this Court is remanding the matter on a different count, it is not desirable for this Court to decide the application under Order 41 Rule 27 of CPC. The defendant is at liberty to file all the documents to substantiate his claim before the trial Court and the plaintiff shall also be at liberty to rebut the documentary evidence.

8. Pursuant to the observation made in para 11 of the said judgment dated 07-04-2022, the defendant filed his application under Order 8 Rule 1A(3) of the CPC on 27-06-2022 along with the documents which are two CDs and the various documents related to the engagement of the plaintiff as the counsel of the defendant and his father in various proceedings as their Advocate and revenue documents. The application was filed along with a list of documents dated 27-06-2022 (Annexure-P/6) and the list of documents submitted by the defendant is annexed with the petition at page No.49 and 50. While passing the judgment dated 07-04-2022 in First Appeal No.184/2008 the petitioner was reserved liberty to file all the documents to substantiate its claim before the trial Court. It is the specific case of defendant that the plaintiff was his counsel and he signed on his trust that he will take care of his property and also that he borrowed certain amount from him and he obtained his signature over blank stamp paper. To show earlier engagement of the plaintiff as the counsel for the defendant they filed the documents which relate to the same issue. The learned trial Court has rejected the application by saying that how the documents filed by the defendant are relevant to the facts of the present case have not been explained in the application and the document does not disclose the relationship of Advocate and Client between the parties. The consideration of the learned trial Court while rejecting the application dated 27-06-2022 is against the observation and liberty given in para 11 of the judgment dated 07-04-2022 passed in First Appeal No.184/2008. The defendant in support of his defence filed the

documents and he was given liberty to lead the evidence also. The plaintiff is having right to cross-examine the defendant's witnesses and also he may file his documents in its rebuttal. No prejudice appears to be caused to any of the parties if the documents filed by the defendant would be taken on record. It is for him to prove his defence by leading proper evidence. However, rejection of the application would certainly prejudice his defence which is against the observation made in the judgment dated 07-04-2022 passed in First Appeal No.184/2008. Along with the application dated 27-06-2022 the petitioner has also filed 2 CDs with respect to telephonic conversation with the plaintiff. It is electronic evidence for which certain requirement is prescribed under the Evidence Act before admission of the document, therefore, for want of sufficient compliance of the provision of the Evidence Act, the CDs cannot be permitted to be taken on record, however, the defendant is entitled to file other documents as shown in the second clause of para 2 of the application dated 27-06-2022. Therefore, this Court is of the considered opinion that the order passed by the learned trial Court rejecting the application of the petitioner filed under Order 8 Rule 1A(3) of the CPC dated 27-06-2022 is not sustainable in part. Accordingly, the writ petition filed by the petitioner is partly allowed. The impugned order dated 04-03-2023 is partly set aside to the extent of rejection of the application filed by the petitioner under Order 8 Rule 1A(3) of the CPC dated 27-06-2022 and the application filed by the petitioner is **partly allowed** with respect to filing of the document as shown in second clause of para 2 of the application (Annexure-P/6) annexed at page No.48 of the petition and the list of the documents dated 27-06-2022 annexed at page No.49 and 50 of the petition, the clause 1 of para 2 of the said application (Annexure-P/6) is rejected.

9. Since the learned counsel for the petitioner has not pressed the challenge with respect to rejection of other applications of Order 8 Rule 1A(3) of the CPC dated 01-08-2022, 13-09-2022, 06-12-2022 and the application under Section 65B of the Indian Evidence Act dated 01-08-2022, rejection of these applications shall remain intact.

10. The writ petition is **partly allowed** to the extent indicated hereinabove. The interim order stands vacated.

11. Copy of this order be forwarded to the learned trial Court for information and necessary compliance.

Sd/-

(Ravindra Kumar Agrawal)

Judge