

(2013) 07 JH CK 0009
In the Jharkhand High Court
Case No : Writ Petition (C) No. 2622 of 2013

Ganesh Tiwari

APPELLANT

Vs

Rama Kant Tiwari and Others

RESPONDENT

Date of Decision : 30-07-2013

Acts Referred:

Citation : (2014) 1 JLJR 195

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Advocate : Sanjay Kumar Tiwari, for the Appellant;

Final Decision : Disposed Off

Judgement

P.P. Bhatt, J.—Heard learned counsel for the petitioner as well as learned counsel for the respondents and perused the impugned order as well as other materials placed on records. It appears that the court below has rejected the application of the petitioner for appointment of Pleader Commissioner for cross-examination of D.W. 1 who is old age person about 85-90 years old. It further appears that it was rejected mainly on the ground that D.W. 1 had in recent past come to the court for filing examination-in-chief on affidavit and, therefore, looking to his health condition he can come to the court for the purpose of cross-examination. The court below further observed that necessary facilities will be provided to him at the time of recording of the cross-examination considering his old age. The learned counsel appearing for the respondents also fairly submitted that they will not ask for any adjournment on the date on which the cross-examination will be fixed by the learned court below and they will conduct the cross-examination without asking for any adjournment and without giving much trouble to the old age person. It is further stated by the learned counsel for the respondents that for bringing the D.W. 1 in the court premises from their village, the cost of transportation/vehicle will be borne by the respondents.

2. In view of the above position, the order passed by the learned court below is

not required to be interfered.

3. It further appears from the counter affidavit filed by the respondents that the defendant's evidence has been ordered to be closed by 20th July, 2013, but the said order is not challenged by the petitioner by filing supplementary affidavit. However, the learned counsel for the respondents has very fairly submitted that he has no objection if the order with regard to closing of defendant's evidence is quash and set aside and petitioner defendant be given an opportunity to adduce evidence.

4. Accordingly, the order dated 20.7.2013 is set aside and defendant permitted to adduce evidence.

5. It further appears that the Civil Suit is of the year 2003 and, therefore, it being a old pending suit, the court below shall also make endeavour for expeditious disposal of the same. The respective parties shall also co-operate to the court below for expeditious hearing of the suit and the trial court shall make endeavour to dispose of the Partition Suit No. 22 of 2003 within one year from the date of receipt of this order. The petition stands disposed of accordingly.