



CGHC010347782026



2026:CGHC:39755

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****WP227 No. 1179 of 2026**

Smt Seema Dubey W/o Govind Dubey, D/o Dinanath Dubey, Aged About 36 Years, Caste- Brahmin, R/o Village- Temar, Present Address- Ward No. 17, House Of Mukteshwar Gabel Jagannathpuram, Sakti, P.S. And Tahsil- Sakti District- Janjgir-Champa (Now Sakti) (C.G.)

**... Petitioner****versus**

Govind Dubey S/o Khamhan Prasad Dubey, Aged About 38 Years, Caste-Brahmin, Village- Temar, P.S. And Tahsil-Sakti, District- Janjgir Champa (Now Sakti) (C.G.)

**... Respondent**


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For Petitioner : Shri Gyan Prakash Shukla, Advocate.  
For Respondent : Shri Suhas Mehar, Advocate.

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**S.B : HON'BLE SHRI JUSTICE RAVINDRA KUMAR AGRAWAL****Order on Board****10/09/2026**

1. Heard.
2. Present is a writ petition under Article 227 of the Constitution of India filed by the petitioner against the impugned order dated 06/08/2026 passed by the learned Principal Judge, Family Court Janjgir-Champa, Link Court Sakti in Civil Suit No.56A/2022, while allowing the application filed by the plaintiff for examination of his additional witness Bhimram Yadav.
3. Learned counsel for the petitioner would submit that the petitioner is the defendant before the learned trial Court and the plaintiff is prosecuting an application under Section 13 of the Hindu Marriage Act, 1955 before the learned Family Court, in which, the plaintiff's evidence has been closed on

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06/03/2025 after examination of the plaintiff's witnesses, thereafter, the case was fixed for recording defendant's evidence. Repeatedly time was granted on the request made by the plaintiff for defendant's evidence, though an affidavit under Order 18 Rule 4 Code of Civil Procedure (for short, 'CPC') has already been filed by the defendant and for examination of the witnesses, the plaintiff's has taken time. He would further submit that on 06/05/2026, the plaintiff has filed an application for examination of his additional witness- Bhimram Yadav on the ground that he was left over at the time when the plaintiff's other witnesses have been examined and he would be the necessary witness, therefore, he may be permitted to examine his additional witness. He further submits that the plaintiff's evidence has been closed on 06/03/2025 and after about a year, he filed an application for examination of his additional witness, in the meantime, the defence of the defendant has been opened and an affidavit under Order 18 Rule 4 CPC has already been filed and only to fulfill the lacuna in their evidence, the plaintiff has filed an application for examination of his additional witness, which cannot be permitted. He would also submit that the application filed by the plaintiff is beyond the scope of Order 18 Rule 17 CPC, which cannot be permitted at a belated stage. Therefore, the impugned order may be set-aside and the plaintiff may be directed to cross-examine the defendant witness.

4. On the other hand, learned counsel appearing for the respondent/plaintiff would oppose the submissions made by the learned counsel for the petitioner and would submit that the defendant's evidence has not been started yet, though the plaintiff's evidence has been closed on 06/03/2025. He would next submit that considering the necessity to examine the additional witness- Bhimram Yadav, who is a relevant and necessary witness in support of the plaintiff's case, the same is required to be examined by the plaintiff's side and the defendant has ample opportunity to cross-examine the said witness. Merely filing an affidavit under Order 18 Rule 4 CPC does not extend any

benefit to the plaintiff or defendant, as the defence has already been opened, when the defendant has filed his written statement as well as when he cross-examined the plaintiff's witness, therefore, no prejudice would have been caused to the defendant, if the plaintiff is being permitted to examine his additional witness. It is lastly submitted that the learned trial Court has rightly exercised its discretion and permitted the plaintiff to examine his additional witness Bhimram Yadav and there is no infirmity in the impugned order and the writ petition is liable to be dismissed.

5. I have heard learned counsel appearing for the parties and perused the documents annexed with the petition.
6. There is no dispute in the sequence of events that on 06/03/2025, the plaintiff's evidence has been closed and thereafter, the defendant has filed her affidavit under Order 18 Rule 4 CPC and cross-examination of the defendant's witnesses have not been started yet. In the proceeding, the respondent/plaintiff has filed an application on 06/05/2026 for examination of his additional witness Bhimram Yadav.
7. Section 134 of the Indian Evidence Act, 1872 provided that no particular number of witnesses shall in any case be required for the proof of any fact and Section 135 regulated the order of production and examination of the witnesses. As per the provision of Section 135 of the Indian Evidence Act, 1872 the order in which the witnesses are produced and examined shall be regulated by the law and practice for the time being relating to the civil and criminal procedure respectively. In the present case, though the plaintiff's evidence has been closed, but the fact remains that the defendant's cross-examination has not been started yet, the parties are knowing fully well about the pleadings of the plaintiff's as well as pleadings of the defendant, it cannot be said that any right of the plaintiff or defendant is prejudiced, if the plaintiff is being permitted to examine his additional witness, as the plaintiff has every right to cross-examine the witness and the defendant has also a right to file

additional affidavit in the form of Order 18 Rule 4 CPC, so that the plaintiff may effectively cross-examine the defendant's witness.

8. From perusal of the order impugned, it transpires that the learned trial Court has already considered the relevant provisions under the CPC with respect to production of evidence and also observed that no prejudice would be caused, if the plaintiff is being permitted to examine his additional witnesses.
9. Accordingly, I do not find any perversity or jurisdictional error in passing the order dated 06/08/2026 passed by the learned Family Court. The petition is, accordingly, dismissed.
10. However, the petitioner is at liberty to file his additional affidavit in the form of Order 18 Rule 4 CPC after cross-examination of the plaintiff's additional witness, if so advised.

Sd/-

**(Ravindra Kumar Agrawal)**  
**JUDGE**