

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 518 of 2015

1. Shri Kulendar Gupta S/o Govind Sao, Aged About 35 years By Caste- Raouniyar, R/o Village- Tapkara, P.S. Jashpur, Tahsil- Pharsabhar, District Jashpur, Civil & Revenue District Jashpur, (Chhattisgarh)
2. Shri Vijay Gupta S/o Govind Sao, Aged About 32 Years By Caste Raouniyar, R/o Village Tapkara, P.S. Jashpur, Tahsil Pharsabhar, District Jashpur, Civil & Revenue District Jashpur, (Chhattisgarh)
3. Shri Satyanarayan S/o Govind Sao Aged About 28 Years By Caste Raouniyar, R/o Village Tapkara, P.S. Jashpur, Tahsil Pharsabhar, District Jashpur, Civil & Revenue District Jashpur, (Chhattisgarh)

---- Petitioners

Versus

1. Jagdish SaoS/o Ramdeni Sao, Aged About 70 Years Caste Raounihar, R/o Village Tapkara, Tahsil Pharsabhar, District Jashpur, Civil & Revenue District Jashpur, (Chhattisgarh) At Present R/o Village Kutmakchar, Police Station Kurdeg, Tahsil & District Simdega (Jharkhand)
2. Smt. Ahilya Devi W/o Late Govind Aged About 60 Years By Caste Raouniyar, R/o Village Tapkara, Tahsil Pharsabhar, District Jashpur, Civil & Revenue District Jashpur, (Chhattisgarh)
3. The Collector, Jashpur, District Jashpur, (Chhattisgarh)

---- Respondents

For Petitioners. : Shri A. K. Prasad, Advocate

For Respondent no.3. :Shri Vinod Tekam, Panel Lawyer

Order

15/07/2015

Heard.

This petition under Article 227 of the Constitution of India has been preferred by the petitioner aggrieved by order Dated 25.06.2015 by which petitioner's application under Order 17 Rule 1 CPC for adjournment has been rejected.

2. Learned counsel for the petitioner submits that the impugned order has resulted in serious prejudice to the petitioner/defendant because he has been deprived of the right of cross examination of plaintiff witnesses. Learned counsel for the petitioner submits that due to non-availability of counsel, the witness could not be cross-examined. It is submitted that merely because earlier the case was adjourned, when the witness remained present by itself, could not have been made basis to reject the application.

3. The impugned order shows, despite repeated opportunity granted to the petitioner, the witness was not examined. The order further shows that 80 years old witness appeared in the Court thrice and earlier a clear order was passed that if the witness is not examined the right of cross-examination would be closed. Despite this, when the case was listed on 25.06.2015, a routine application for adjournment was filed by vaguely stating that original counsel for some reason could not come. This hardly constitutes a ground to seek adjournment. After granting 3 adjournments, further adjournments could not be granted by the Court, as a matter of course.

4. Learned counsel for the petitioner has placed reliance upon the Judgment in the case of **Smt. Vibha Singh Thakur Vs. Sukhdev(dead) & Others(2007(2)CGLJ514)** In that judgment also, it has been clearly held that adjournment should not be granted either as a matter of right of a party or as a matter of routine and for the purpose of grant of adjournment, particularly beyond 3 adjournments, special and extra-ordinary circumstances are to be set forth by a party praying therefore so that, the legislative intent to restrict the ground of adjournment may be fulfilled. In view of the above consideration, there is no jurisdictional illegality or perversity in the impugned order. The petition has no merits. The same deserves to be dismissed and is accordingly dismissed summarily.

Sd/-

Manindra Mohan Shrivastava

Judge