

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 711 of 2015

Jagdeesh Mahapatra S/o Dataram Mahapatra, Aged About 45 Years Occupation
Agriculture R/o Village Pussore Tahasil & Distt. Raigarh Chhattisgarh

---- Petitioner

Versus

1. Sushil Kumar S/o Data Ram Mahapatra, Aged About 40 Years R/o Village Pussore
Tahsil & District Raigarh Chhattisgarh
2. Pradeep Kumar Mahapatra (Maanu), S/o Shushil Kumar Mahapatra Aged About
18 Years R/o Village Pussore Tahsil & District Raigarh Chhattisgarh
3. Kumari Jyoti Mahapatra (Jhunu), D/o Shushil Kumar Mahaptra, R/o Village
Pussore Tahsil & District Raigarh Chhattisgarh
4. Shyamlal Mahapatra (Sharma) S/o Dataram Mahapatra, Aged About 55 Years R/o
Village Pussore Tahsil & District Raigarh Chhattisgarh
5. The Collector Raigarh, Collectorate Raigarh, Thana And District Raigarh
Chhattisgarh

---- Respondents

Shri N.K.Malviya, counsel for the petitioner/s.
Shri Vinod Tekam, Panel Lawyer for the State.

Order

02/09/2015

This petition, under Article 227 of the Constitution of India, is preferred against order dated 02/01/15 by which, petitioner's right to lead evidence has been closed.

2. Learned counsel for the petitioner argued that the Trial Court swayed by the fact that suit is pending for more than 10 years, has abruptly closed plaintiff's right to lead evidence ignoring that just cause of non-appearance of the lawyer was taken before the Court. It is submitted that even after three opportunities, in appropriate cases of extra ordinary nature, there is no bar under the law to grant adjournment. He submits that by closing the right of the plaintiff to lead evidence, virtually the fate of the suit has been decided.

3. A bare perusal of the impugned order shows that the suit has remained pending for more than 10 years. The issues were framed as back as on 29/07/11. The plaintiff has been afforded ample opportunities to lead evidence but till date, not even the affidavits have been filed. The reason assigned for seeking adjournment is not permissible under the provisions of Order 17 Rule 1 CPC.

4. Therefore, there is no illegality or perversity in the order. The party cannot be allowed to protract and delay the trial for indefinite period at its own choice particularly on the ground that the counsel is not available. There has to be an end to the trial and it cannot be allowed to continue for indefinite period. The petition is accordingly dismissed.

Sd/-

Manindra Mohan Shrivastava
Judge