

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 768 of 2015

1. Kanshiram Sahu S/o Samelal Sahu, Aged About 48 Years R/o Village Karchuva, Post Pendritarai, Tahsil And District Bemetara (Chhattisgarh).....(Defendant No. 1)
2. Smt. Nirmal Sahu, W/o Kanshiram Sahu, Aged About 42 Years R/o Village Karchuva, Post Pendritarai, Tahsil And District Bemetara (Chhattisgarh).....(Defendant No. 2)

---- Petitioners

Versus

1. Indalram Sahu S/o Late Punauram Sahu, Aged About 73 Years R/o Village Karchuva, Post Pendritarai, Tahsil And District Bemetara (Chhattisgarh).....(Plaintiff)
2. Pankaj Kumar Sahu, S/o Indalram Sahu, Aged About 40 Years R/o Village Karchuva, Post Pendritarai, Tahsil And District Bemetara (Chhattisgarh).....(Defendant No. 3)
3. State Of Chhattisgarh, Through : The Collector, Bemetara Tahsil And District Bemetara (Chhattisgarh).....(Defendant No. 4)

---- Respondents

For Petitioners	:	Shri P.P. Sahu, Advocate.
For Respondent/State	:	Shri Vinod Tekam, Panel Lawyer.

Oral Order

17/09/2015

Heard.

1. This petition is directed against order dated 20.07.2015 by which, the Trial Court has closed the defendants' right to file written statement.
2. Learned counsel for the petitioners submits that the impugned order closing petitioners' right to file written statement has resulted in serious prejudice to petitioners' right. It is argued that the just and valid cause was shown before the Trial Court as to why written statement could not be filed on the date i.e. absence of the counsel but the Court below did not appreciate the ground and closed the right. In the circumstance, the petitioners were entitled to atleast one more opportunity to file a written statement.

3. The ground for adjournment was non-availability of the counsel stating that the counsel has gone to another Court out of station. Even junior counsel was also stated to be the out of station for the Court work. That was the reason stated for not filing written statement. The Court below taking into consideration that despite repeated opportunity granted, written statement is not being filed even though on the last date of hearing, last opportunity with a cost of Rs.500/- was imposed, passed the impugned order.

4. The ground on which the adjournment was sought, was not available to the petitioners under the law. Despite last opportunity granted on earlier occasion, the petitioners did not file written statement and in these circumstances, the impugned order closing petitioners' right to file written statement does not suffer from error of jurisdiction or perversity warranting interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India. The petition is therefore dismissed.

**Sd/-
Manindra Mohan Shrivastava**

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