

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 435 of 2015

1. Munna Lal And Anr. S/o . Samund Lal Sahu Aged About 35 Years R/o. Village- Khaira, Thana & Tahsil- Kasdol, Civil & Revenue Distt.- Baloudabajar (Chhattisgarh)
2. Ganesh Ram S/o . Dasharam Sahu Aged About 65 Years R/o. Village Namaldi, Thana & Tahsil- Bilaigarh, Civil & Revenue Distt.- Baludabazar (Chhattisgarh)

---- Petitioners

Versus

1. Ishwari Prasad And Ors. S/o . Malikram Khunte (Forest Guard) R/o. Village- Baijnath, Thana & Tahsil- Kasdol, Civil & Revenue Distt.- Baloudabazar (Chhattisgarh)
2. Arun Kumar Sahu Divisional Forest Officer Bijapur, Distt.- Bijapur (Chhattisgarh)
3. Ramji Dubey Deputy Forest Ranger, Bangalipara Gali No.4 Sarkanda Bilaspur, Distt.- Bilaspur (Chhattisgarh)
4. D.K. Singh Assistant Conservator Of Forest, General Forest Division Raipur, Near Rajatalab Raipur, Distt.- Raipur (Chhattisgarh)
5. State Of Chhattisgarh, Through Collector Raipur, Distt.- Raipur (Chhattisgarh)

---- Respondents

For Petitioners.	: Shri Sunil Sahu, Advocate.
For Respondent no. 5/State.	: Ms. Sunita Jain, Panel Lawyer.
For Respondent.	: None for other respondents.

Order

15/09/2015

Heard.

1. The petition is directed against the order dated 17.04.2015 by which the Trial Court has rejected petitioner's application for document and close the right to lead plaintiff's evidence.
2. Learned counsel for the petitioner submits that the Court below has wrongly rejected the application and thereby closing right of plaintiff to lead evidence ignoring that the case was adjourned for reasons other than those attributable to the petitioner, on previous dates of hearing. It is submitted that on 18.03.2015 an affidavit under Order 18 Rule (4) CPC was filed and copy of the same was given to the defendant for cross examination of plaintiff's

witnesses and, thereafter, the case was transferred to the Court of First Additional District Judge Balodabajar and due to strike of lawyers it was adjourned for cross-examination of plaintiff's witness on 17.04.2015 on which day plaintiff Munna Lal was sick and therefore, on this ground, adjournments application under Order 17 Rule (1) CPC was filed. The Trial Court has rejected the application on a factual incorrect premise that the petitioner was granted 3 adjournments and no further adjournment can be granted without an extra ordinary circumstance having been made out.

3. A perusal of the impugned order shows that the Court below was swayed on the ground that the petitioner was seeking adjournment whereas prior to 17.04.2015 the case was adjourned for reasons not attributable to the petitioner. Therefore, in these circumstances, rejection of petitioner's application for adjournment on such a ground, without disbelieving the ground of sickness of plaintiff, suffers from illegality and perversity and can not be sustained in law. The impugned order in so far it closes the plaintiff's rights to lead evidence is set aside and the trial Court is directed to afford the petitioner proper opportunity to lead his evidence. The petitioner shall however, pay cost of Rs. 500/- to the defendants.

4. Accordingly, the petition is finally disposed off.

Sd/-

Manindra Mohan Shrivastava

Judge