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HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 419 of 2016**

- Durgashankar Mishra S/o Shri Shivdeen Mishra, Aged About 54 Years Caste Brahmin, R/o Village Janakpur, Tahsil Bharatpur, P. O. & P. S. Janakpur, District Korea Chhattisgarh Civil & Revenue District Korea (Chhattisgarh)

---- Petitioner

Versus

1. Rajesh Pal Raijada S/o Satyapal Raijada, Aged About 50 Years Caste Kshatriya, R/o Dadu Auto Parts, Opposite Ganesh Mandir, Budhar Chowk, Shahdol Madhya Pradesh
2. State Of Chhattisgarh, Through The Collector Korea, Korea Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Vivek Chopda, Advocate
For Respondent	:	Shri PK Bhaduri, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****12/07/2016**

1. By the order impugned in this petition under Article 227 of the Constitution of India, the trial Court has rejected petitioner's application under Order 8 Rule 1 CPC which was moved for closing defendant's right to file written statement.
2. In the matter of **Kailash V. Nanhku**¹, the Supreme Court has held that the provisions contained under Order 8 Rule 1 CPC are directory and not mandatory.
3. Although in **Kailash** (*supra*), the Supreme Court has observed that the

¹ AIR 2005 SC 2441

power under Order 8 Rule 1 CPC should not be exercised liberally and that ordinarily the time schedule contained in the provision is to be followed as a rule and departure therefrom should be by way of exception, yet considering the limited jurisdiction available to this Court under Article 227 of the Constitution of India and for the fact that the trial Court has observed that for the ends of justice and to follow the provisions of natural justice, the defendant is allowed one more opportunity, by way of last indulgence, no case for interference with the impugned order is made out.

4. Accordingly, the writ petition is dismissed. However, it is observed that the trial Court shall expedite the hearing of the suit.

Sd/-

Judge
Prashant Kumar Mishra

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