

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 641 of 2016**

Kejoram Dewangan, aged 55 years, son of late Shri Sukalu Ram Dewangan, resident of near Kali Mata Mandir, Sorid Ward, Dhamtari, District Dhamtari (C.G.)

---- **Petitioner****Versus**

1. Jageshwar Sahu, aged 72 years, son of late Kanhaiya Sahu, resident of near Kali Mata Mandir, Sorid Ward, Dhamtari, District Dhamtari (C.G.)
2. Naresh Sahu, aged 50 years, son of Johat Sahu,
3. Narendra Sahu, aged 55 years, son of Johat Sahu

Both are residents of village Sankara, P.S. And Tahsil Nagari, District Dhamtari (C.G.)

---- **Respondents**

For Petitioner: Mr. Somnath Verma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board**27/10/2016**

Heard on the question of admission.

(1) The trial Court, by its impugned order 15.09.2016, rejected the application filed by the petitioner under Order 17 Rule 1 of the Code of Civil Procedure (for short "CPC") and closed the opportunity of the defendant to lead evidence.

(2) The suit was filed by the plaintiff on 17.09.2007 and the written statement was filed by the defendant on 02.02.2008. The *ex parte* decree was passed on 12.02.2009 which was set aside

and petitioner/defendant was granted opportunity to lead evidence on 08.03.2016, 14.02.2016, 13.05.2016, 03.07.2016 and 12.08.2016.

(3) On 12.08.2016 Court again fixed the case for evidence of the petitioner/defendant and on application moved under Order 17 Rule 1 CPC the trial Court rejected the application holding that the sufficient opportunity has been given and no affidavit has been filed in support of application nor supported by the medical certificate and closed the opportunity to lead the evidence. In view of above-stated facts, I do not find any error of jurisdiction in the order of the trial Court rejecting that application.

(4) Accordingly, the writ petition is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-