

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (227) No. 516 of 2016**

Sahida Begam wife of Khaliluddin aged about 53 years,
resident of village Bagbudwa, Tahsil Mungeli, Civil District
Bilaspur and Revenue District Mungeli (CG)

---- Petitioner

Versus

Firanta Mehar, son of Lakhan Mehar, aged about 38 years,
resident of Daihanpara, Battalion Road, Sakri, Bilaspur,
Sub Tahsil Sakri, Tahsil Takhatpur, Civil and Revenue
District Bilaspur (CG)

---- Respondent

For Petitioner : Mr.M.H. Baig, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****30/11/2016**

1. By the order impugned, the trial Court has rejected the application filed by the petitioner/defendant under Order 17 Rule 1 of the CPC for adjournment. Against which, this writ petition under Article 227 of the Constitution of India has been filed.
2. A careful perusal of order of the trial Court would show that the trial Court has granted more than sufficient opportunity to the petitioner/defendant to lead the evidence and even imposed cost against her, then also she has not produced the evidence and again filed an application under Order 17 Rule 1 of the CPC for adjournment, which has been rejected by the trial Court.

The trial Court has exercised the discretion in rejecting the application under Order 17 Rule 1 of the CPC.

3. Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory

¹ (2003) 6 SCC 675

² (2010) 8 SCC 329

³ (2013) 9 SCC 374

jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

4. Having heard learned counsel for the petitioner and having perused the impugned order, this Court does not find any such illegality or perversity committed by the trial Court which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.
5. Accordingly, the writ petition deserves to be and is hereby dismissed. No order as to costs(s).

Sd/-

(Sanjay K Agrawal)
Judge

B/-