

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 106 of 2017**

1. Silviya Masih W/o Late Wilington Masih Aged About 40 Years
2. Ku. Akanksha, D/o Late Wilington Masih, Aged About 15 Years
3. Ashish, S/o Late Wilington Masih, Aged About 10 Years
4. Ku. Engina, D/o Late Wilington Masih, Aged About 8 Years

No. 2 to 4 Next Friend Silviya Masih, aged about 40 years, W/o Late Wilington Masih, all are R/o Q. No. H-6, Nutan Colony, Sarkanda Bilaspur, Police Station Sarkanda, Tahsil, Civil & Revenue District Bilaspur (Chhattisgarh)

---- **Petitioners****Versus**

1. Fredrik Masih S/o Imanuel Masih, Aged About 55 Years
2. Violate, D/o Imanuel Masih, Aged About 54 Years
3. Gloriya, D/o. Imanuel Masih Aged About 50 Years

No. 1 to 3 are R/o Jyotipur, Pendra Road, Police Station & Tahsil Pendra Road, Civil & Revenue District Bilaspur (Chhattisgarh), Mo. No.- Not known

4. Margrate S/o Imanuel Masih (Missing),
5. State of Chhattisgarh, Through : Collector Bilaspur, Police Station Civil Lines, Tahsil, Civil & Revenue District Bilaspur (Chhattisgarh)

---- **Respondents**

For Petitioners : Shri Ratnesh Agrawal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

08/02/2017

1. Petitioners being defendants were refused adjournment on 22.07.2016 when plaintiffs' witness Gloriya Robert was examined before the trial Court.

2. A reading of the order would indicate that the adjournment was sought on the ground that defendants' senior counsel, who is regularly appearing in the case being indisposed, was unable to attend the Court. Ordinarily when adjournment is sought on personal ground relating to the counsel who has handled the case, the prayer for adjournment is allowed considering all the facts and circumstances of the case including the conduct of the concerned party during the proceedings. Such prayer is allowed when there is no apparent motive or mala fide to protract the litigation. In the present case, no such finding has been recorded by the trial Court that the application has been filed to delay the trial.
3. It is argued that the witness is important for the defendants to disprove plaintiffs' case and prove their own counter claim. Since the defendants have cross-examined all the witnesses of the plaintiffs without seeking any adjournment, ends of justice would be served if petitioners are allowed one opportunity to cross-examine plaintiffs' witness Gloriya Robert, subject however on payment of cost of Rs.3000/- by the petitioners to the plaintiffs. Accordingly, the trial Court is directed to summon plaintiffs' witness Gloriya Robert for her cross-examination by the petitioners and thereafter to examine the defendants' witnesses.
4. It is made clear, the petitioners/defendants shall co-operate in the trial and shall not seek unnecessary adjournment.

Sd/-

Judge
Prashant Kumar Mishra

Ashu