

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 566 of 2017**

Lakhan Singh, S/o Madhosingh, aged about 50 years,
Occupation – Agriculturist, R/o Village Tenduwa, Tahsil
Nawagarh, District Bemetara (C.G.) Defendant No.1

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

1. Smt. Mithilesh Bai, W/o Puran Singh, aged about 50 years,
2. Smt. Maameshwari, Wd/o Jayprakash, aged about 23 years,
3. Indrajeet Singh, S/o Jayprakash, aged about 4 years,
4. Ku. Sakshi, D/o Jayprakash, aged about 1 ½ years,

Respondents No. 3 & 4 are minors, through next friend mother –
Smt. Maaneshwari Devi, Wd/o Jayprakash,

5. Omprakash, S/o Puran Singh, aged about 19 years,

Respondent No. 5 (earlier minor through : next friend mother
Mithilesh Bai) now major

All are R/o Village Tenduawa, Tahsil Nawagarh, District
Bemetara (C.G.)

6. Duklaha, aged about 35 years, Caste Lodhi,
7. Balmukund, S/o Indaram Lohdi, aged about 45 years,

Respondents No. 6 & 7 are R/o Village Tenduwa, Tahsil
Nawagarh, District Bemetara (C.G.)

8. Puran Singh, S/o Bhagwanta Singh Lodhi, aged about 45 years,
R/o Village Tenduwa, Tahsil Nawagarh, District Bemetara (C.G.)
9. State of Chhattisgarh, Through : the Collector, Bemetara (C.G.)
(Earlier Durg)

(Complete discription of the parties is mentioned in Annex. P-8)

---- **Respondents**

For Applicant: Mr. P.P. Sahu, Advocate.
For State : Mr. Gary Mukhopadhyaya, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/08/2017

(1) By the order impugned order dated 19.04.2017, the trial Court has rejected the application filed by the defendant No.1 under Order 16 Rule 1 of the Code of Civil Procedure (henceforth "CPC").

(2) Learned counsel for the petitioner submits that the order impugned passed by the trial Court is unsustainable in law and, therefore, the same is liable to be set aside.

(3) Per contra, counsel for the State while opposing the writ petition submits that the impugned order passed by the trial Court is strictly in accordance with law

(4) I have heard learned counsel appearing for the parties and perused the impugned order with utmost circumspection.

(5) Since the petitioner has already filed affidavit of the witnesses namely Balmukund and Roshan and they were present before the trial Court on 16th March, 2017, therefore, in the considered opinion of this Court, it is directed that they will be examined by the trial Court on the next date of hearing i.e. 17th August, 2017 subject to payment of cost of Rs.5,000/- to the plaintiff and on that day no further adjournment shall be granted. The cost will be paid by tomorrow itself. However, the plaintiff is at liberty to file application for modification, if any.

(6) The trial Court is directed to submit his explanation that as to why the suit is not tried day to day basis as per the provisions contained in proviso to Order 17 Rule 1 (2) of the CPC as the suit is

filed on 26th August, 1994 and why it is adjourned for three or four weeks on each date of hearing.

(7) The trial Court is further directed to conclude the decide the suit expeditiously preferably within a period of one month from the date of receipt of certified copy of this order.

(8) The explanaiton must reach before this Court by Monday i.e. 21st August, 2017.

(9) With the aforesaid observations, the writ petition stands finally disposed of.

(10) Certified copy, today.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-