

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 813 of 2017**

Anand Mohan Agrawal S/o Late Om Prakash Agrawal, Aged about 45 years,
R/o in front of Ishwar Saw Mill, Laxmi Daal Mill, Fafadih, Raipur, District
Raipur Chhattisgarh.

---- Petitioner**Versus**

1. Tike Ram Gond S/o Shri Bhikhari Gond, Aged about 37 years, by Caste
Gond R/o Village Muchhbahal, Tahsil Manipur, District Gariyaband
Chhattisgarh.
2. Bhikhari Gond, S/o Shri Madan Gond, Aged about 65 years, R/o Village
Muchhbahal, Tahsil Manipur, District Gariyaband Chhattisgarh.
3. Basmati Gond, W/o Shri Bhikhari Gond, Aged about 55 years, R/o Village
Muchhbahal, Tahsil Manipur, District Gariyaband Chhattisgarh
4. Tarun Jharia, S/o Shri Ramesh Jharia, Aged about 28 years, R/o Village
Rawabhata, Ward No. 25, P. S. Khamtarai, District Raipur Chhattisgarh

---- Respondents

For Petitioner : Mr. Malay Kumar Bhaduri, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****08/11/17**

1. Learned counsel appearing on behalf of petitioner would submit that
the petitioner's right to file written statement has been closed by the Motor
Accident Claims Tribunal, Gariyaband by order dated 24.07.2017, being
aggrieved against which this writ petition under Article 227 of the
Constitution has been preferred by the petitioner.

2. Learned counsel for the petitioner would submit that he is ready and willing to file the written statement and further time may be granted. He also submits that the provisions contained in Order 1 Rule 10 of CPC is directory in nature and also relied upon the decision rendered by Hon'ble Supreme Court in **Kailash v. Nanhku and Others**¹ .

3. I have heard learned counsel for the petitioner.

4. Since it is the claim petition and the presence of the petitioner (owner of the offending vehicle) is necessary for proper disposal of claim etc. as he is the contesting non-applicant No. 2 in the petition and provision contained in Order 8 Rule 1 CPC is directory in nature, the written statement of the petitioner is necessary therefore, the impugned order is set aside and the written statement must be filed by the petitioner on or before 22.11.2017 subject to payment of cost of Rs.2,000/- to the claimants on the next date of hearing. It is made clear that no further time will be granted to the petitioner by the Claims Tribunal to file the written statement. However, the respondents would be at liberty to move an application for modification of the order, if they are aggrieved.

5. With the aforesaid observations, the writ petition stands finally disposed of. No order as to cost(s).

SD/-

(Sanjay K. Agrawal)
Judge

¹ (2005) 4 SCC 480