

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 909 of 2017**

1. Novesh Lalji S/o Hemant Kumar Lalji, aged about 40 years, Caste Christian, R/o Daupara, Mungeli, Tahsil & District Mungeli Chhattisgarh
2. Neeta D/o Hemant Kumar Lalji aged about 42 years, Caste Christian, R/o Daupara, Mungeli, Tahsil & District Mungeli Chhattisgarh

---- Petitioners**Versus**

1. Smt. Madhuriraj Lalji W/o Late Naveen Raj Lalji aged about 46 years, R/o 1826, Silver Oak Compound, Napier Town Jabalpur Tahsil & District Jabalpur Madhya Pradesh
2. Master Emmanuel Raj Lalji S/o Not Known, aged about 8 years, Minor Through Guardian Madhuriraj Lalji, R/o 1826, Silver Oak Compound, Napier Town Jabalpur Tahsil & District Jabalpur Madhya Pradesh
3. State of Chhattisgarh Through The Collector, Mungeli Chhattisgarh

---- Respondents

For Petitioners	:	Mr. C. Jayant K. Rao, Advocate.
For Respondents/State	:	Mr. Ashish Surana, Panel Lawyer for the State.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****08/12/17**

1. By the impugned order dated 20.11.2017, the trial Court has rejected the application of petitioners / plaintiffs' filed under Order 17 Rule 1 of the C.P.C. and closed their opportunity to lead evidence, against which this writ petition under Article 227 of the Constitution has been preferred by the petitioners.
2. Learned counsel for the petitioners submit that the impugned order is unsustainable and bad in law as only one witness was remained to be examined who could not be examined on account of ill health of the witness

for which the petitioners / plaintiffs' have made an application under Order 17 Rule 1 of the C.P.C. which has been rejected by the trial Court. Therefore, the impugned order is liable to be set aside.

3. I have heard learned counsel for the petitioners and perused the impugned order with utmost circumspection.

4. The reason assigned by the petitioners / plaintiffs in the application appears to be sufficient and, therefore, one more opportunity is given to the petitioners / plaintiffs to examine their witness on the next date of hearing preferably in the next week subject to payment of cost of Rs. 5,000/- to the respondents / defendants. It is made clear that no further opportunity will be granted to the petitioners / plaintiffs to examine their witness. However, the respondents / defendants would be at liberty to move an application for modification of the order, if they are aggrieved.

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

Certified copy, today.

Sd/-

(Sanjay K. Agrawal)
Judge