

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(227) No. 180 of 2018**

Ram Kumar Soni S/o Jhadu Ram Soni Aged About 51 Years Caste Sonar, R/o Baloda Tahsil Baloda, District Janjgir Champa, Chhattisgarh.

---- **Petitioner**

Versus

1. Shanti Bai Wife Of Khem Nath Tiwari (Since Dead)
- 1(a) - Geeta Bai D/o Khem Nath Tiwari Aged About 40 Years
- 1(b) - Ku. Bandana D/o Late Naresh Kumar Tiwari Aged About 14 Years Minor Through Legal Guardian Uncle Dinesh Kumar Tiwari, S/o Khem Nath Tiwari,
2. Dinesh Tiwari S/o Late Khem Nath Tiwari,
3. Baratu Yadav S/o Raghuwar Yadav, Aged About 58 Years,
All R/o Village Budgahan Road, Ram Nagar Baloda, P.S. And Tahsil Baloda, District Janjgir Champa, Chhattisgarh.
4. Guddu S/o Santosh Kumar Pandey D/o Late Bhan Kumari,
5. Pinku, aged about 20 years, S/o Santosh Kumar (Son Of Late Bhan Kumari)
6. Guddi D/o Santosh Kumar Pandey, D/o Late Bhan Kumari,
No.4 to 6 are R/o Bhilai Bazar, Tahsil Katghora, District Korba, Chhattisgarh
7. State Of Chhattisgarh, Through The Collector, District Janjgir Champa, Chhattisgarh

---- **Respondents**

For petitioner – Shri N.K. Chaterjee, Advocate.
For State- Shri Suryakant Mishra, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

19/04/2018

Heard.

1. Instant petition is against the order dated 26/04/2017 and subsequent order dated 17/10/2017. By the order dated 26/04/2017 right to cross examination of the further witness of the plaintiff were closed. Subsequently, an application under section 151 of CPC was filed wherein again prayer was made to allow cross examination of the witness on the ground that on 26/07/2017 plaintiff was sitting out side the court he could

not hear when the case was called, therefore cannot enter in the court. Consequently, his cross examination could not be completed. Few of the order sheet have been placed before this court. It is not clear from reading of the order sheet as to how many dates have been obtained by the petitioner/plaintiff. In order to justify the contention, bonafide should have been shown before the court that the plaintiff was restrained form any genuine reason as such could not appear for cross examination. Reading of the order sheet would show that on 31/01/2014 affidavit of the plaintiff was placed on record. Subsequently, order sheet further shows that on 5/04/2016 one of affidavit of Durga was filed and on 25/07/2016 one affidavit of Komal was filed. Order dated 26/04/2017 shows that despite several opportunities plaintiff did not appear, consequently his right to lead evidence was closed. After evidence of the plaintiff was placed on record by an affidavit under Order 18 Rule 4 of CPC on 31/01/2014 what was the reason which restrained the plaintiff to appear before the court and what were the grounds of adjournment which would be reflected in the order sheet is not placed before the court. Therefore, this court cannot pass any order on the presumption that genuine reason might have existed, therefore plaintiff could not appear.

2. The petition and order sheet is as vague as it could be. Petition has no merit and it is dismissed accordingly.

Sd/-

(Goutam Bhaduri)

JUDGE