

**HIGH COURT OF CHHATTISGARH, BILASPUR****WRIT PETITION (227) No. 879 of 2018**

1. Sakha Ram Sahu S/o Ramsahay, aged about 60 years, R/o village Khairwar (Bairagi), Tahsil and District Mungeli (C.G.)

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

1. Smt. Chamarin Bai W/o Seeta Ram Sahu, aged about 62 years, R/o Village Kheda, Tahsil and District Mungeli (C.G.)
2. Mungesiya @ Jethiya Bai D/o Ramsahay, aged about 62 years, R/o Village Pendarakanpa, Tahsil and District Mungeli (C.G.)
3. State of Chhattisgarh, through Collector, Mungeli, District Mungeli (C.G.)

**---- Respondents**


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| For Petitioner              | : | Mr. C.K. Sahu, Advocate. |
| For Respondent No.3 / State | : | Mr. Ashish Surana, PL.   |

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****25/10/18**

1. The trial Court rejected the defendant's application filed under Order 17 rule 1 of CPC for adjournment against which he preferred miscellaneous appeal before the District Judge, Mungeli which has been dismissed by order dated 29.08.2018 (Annexure -P/1) as not maintainable, aggrieved against which this writ petition has been preferred.
2. Learned counsel for the petitioner submits that the impugned order is unsustainable and bad in law and is liable to be set aside.
3. I have heard learned counsel for the petitioner and perused the impugned order.
4. Admittedly, no miscellaneous appeal lies under Order 43 Rule 1 of

CPC against the order rejecting Order 17 Rule 1 CPC and as such the learned District Judge is absolutely justified in dismissing the miscellaneous appeal. I do not find any perversity or illegality in the impugned order.

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

6. A copy of this order be sent to the trial Court through the District Judge, Mungeli through email and Fax.

SD/-

**(Sanjay K. Agrawal)**  
Judge