

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (227) No. 970 of 2018

Deraha S/o Jhadu Aged About 50 Years R/o- Village Basantpur, Tahsil Dongargarh, District- Rajnandgoan, Chhattisgarh.

---- Petitioner

Versus

1. Derhin Bai D/o Jhadu Aged About 55 Years R/o- Baiherabhata, Tahsil And Police Station- Gumka, District- Rajnandgaon, Chhattisgarh.
2. Laliti Bai D/o Jhadu Aged About 48 Years R/o- Village Dodki, P.S. & Tahsil Dongargarh, District- Rajnandgaon, Chhattisgarh.
3. State Of Chhattisgarh Through- Collector- Rajnandgaon, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri P.N. Bharat, Advocate.
For State/Respondent No.3	:	Shri Adhiraj Surana, Dy,GA.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/11/2018

1. By the impugned order plaintiff's application under Section 45 of the Evidence Act has been rejected on the ground that it ought to have been filed before the settling date and it has to dispose of on or before 30.11.2018, as per action plan issued by this Court.
2. I have heard the counsel for the parties at length.
3. The trial Court ought to have decided the application under Section 45 of the Evidence Act on its own merits as there is no bar that the application filed after the settling date cannot be heard on merits. Likewise, in order to get the suit quickly disposed of, the application cannot be rejected. The impugned order rejecting the application is hereby set aside, and application under Section 45 of the Evidence Act is restored to the Court of Civil Judge Class I, Dongargarh to hear and decide the same afresh in accordance with law within 7 days from the date of receipt of this order. Othe side is at liberty to make an application for modification.
4. A certified copy of this order be sent to the concerned trial Court directly and through Email and Fax.

Sd /-

(Sanjay K. Agrawal)

Judge