

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Art.227) No.590 of 2019****Order reserved on :11.09.2019****Order delivered on: 23.09.2019**

1. Puran Gond, son of Sukalu, aged about 71 years, (died) through Legal Heirs

- 1.1 Manharan Bai, wife of Puran Gond, aged about 68 years,

- 1.2 Manmautin Bai, daughter of Puran Gond, aged about 38 years,

Both are resident of village Dadadih, near village Latuwa, Tahsil and P.S. Baloda Bazar, District Baloda Bazar Bhatapara (CG) at present resident of Batkel (Khurd), P.S. Pithoura, Tahsil and District Mahasamund (CG)

- 1.3 Leeladhar Gond, son of Puran, aged about 33 years, resident of cultivator, village Dadadih, near village Latuwa, Tahsil and P.S. Baloda Bazar, District Baloda Bazar, District Baloda Bazar Bhatapara (CG)

---- Petitioners**Versus**

1. M/s. Lafarge India Ltd. Cement Plant Sonadih Tah. Baloda Bazar, District Baloda Bazar Bhatapara (CG)
2. Director M/s. Lafarge India Ltd. Cement Plant Sonadih Tah. Baloda Bazar, District Baloda Bazar Bhatapara (CG)
3. Virendra Ekka, son of Predrik Ekka, aged about 42 years, resident of village Ginabahar, Tahsil Kunkuri, District Jashpur (CG)
4. Collector, Baloda Bazar, District Baloda Bazar Bhatapara (CG)
5. State of Chhattisgarh, Through Secretary, Mahanadi Bhawan, Raipur, Naya Raipur (CG)
6. Sub Divisional Officer (Revenue) Baloda Bazar, District Baloda Bazar Bhatapara (CG)
7. Tahsildar, Baloda Bazar, District Baloda Bazar Bhatapara (CG)
8. Sub Registrar, registrar office Baloda Bazar, District Baloda Bazar Bhatapara (CG)
9. Vishali Gond, son of Dhansai, aged about 48 years, resident of village Dadadih, Near Post Latuwa,
10. Brihaspati Bai, daughter of Dhansai, aged about 34 years, resident of village Dadadih, near post Latuwa,
11. Durpati Bai Gond, daughter of Dhan Sai, aged about 41 years, resident of village Dadadih, near post Latuwa,

9 to 11 Tahsil Baloda Bazar, District Baloda Bazar Bhatapara (CG)

12. Salik Gond, son of Dhansai Gond, aged about 47 years, cultivator, resident of village Dadadih, Tahsil Baloda Bazar, District Baloda Bazar Bhatapara (CG)
13. Aadiwasi Gond Samaj, Dadadih, through President Gorelal, Caste Gond, son of Ramprasad Gond, Cultivator, Resident of village Dadadih, Near post Latuwa, Baloda Bazar, District Baloda Bazar Bhatapara (CG)
14. Lalaram son of Puran Gond, aged about 33 years, resident of village Mudgaon, post Gajar, P.S. Bagbahara, District Mahasamund (CG)

---- Respondents

For Petitioners	:	Mr.Sudhir Verma and Mr.Satya Narayan Verma, Advocates
For Respondent No.3	:	None present
For Res.No.4 to 8	:	Mr.Ravi Bhagat, Dy.G.A.
For Res.9 to 12	:	Mr.Ravindra Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. This writ petition is directed against the order dated 12.7.2019 by which learned First Additional District Judge, Baloda Bazar rejected the petitioners'/plaintiffs' two applications filed under Order 18 Rule 17 read with Section 151 of the CPC (I.A.No.2) and application under Order 7 Rule 14 read with Section 151 of the CPC for taking additional documents on record.
2. Mr.Sudhir Verma, learned counsel for the petitioners/plaintiffs, would submit that the trial Court is absolutely unjustified in rejecting two applications filed by the plaintiffs by not taking additional documents on record. He would further submit that I.A.No.2 i.e. application under Order 18 Rule 17 of the CPC was filed on 27.8.2018 and I.A.No.3 i.e. application under Order 7 Rule 14 of the CPC was filed

on 18.1.2019, but learned trial Court allowed the evidence to be completed and then at the fag end of trial rejected both the applications giving no time to the plaintiffs to question that order, as such, the impugned order deserves to be set aside.

3. Mr.Ravindra Sharma, learned counsel for respondents No.9 to 12, would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions and went through the records with utmost circumspection.
5. The plaintiff and his witnesses were examined, on 1.8.2018 the plaintiff declared his evidence closed and accordingly, the case was fixed for defendants' evidence on 27.8.2018. It appears that on that date, on behalf of the plaintiffs, application under Order 18 Rule 17 read with Section 151 of the CPC was filed along with some documents and that application remained pending. On 18.1.2019, the plaintiffs filed another application under Order 7 Rule 14 read with Section 151 of the CPC stating inter-alia that they do not wish to press the application under Order 18 Rule 17 of the CPC as they could have been filed an application under Order 7 Rule 14 of the CPC and therefore, I.A.No.2 be not pressed and documents filed earlier with I.A.No.2 could be taken on record, which the trial Court has rejected finding that the plaintiff evidence has already been closed on 1.8.2018 and as such, there is no sufficient ground to entertain such application.
6. The fact remains that application under Order 18 Rule 17 of the

CPC filed on 27.8.2018 has been dismissed as not pressed at the instance of the plaintiffs, but the application under Order 7 Rule 14 of the CPC, which was filed on 18.1.2019, simply states that documents filed along with an application i.e. I.A.No.2 on 27.8.2018 is just and necessary for proper disposal of suit. It was neither supported by the documents nor any statement has been made as to how such documents are necessary for just and proper disposal of suit as it was filed after completion of their evidence and no list of documents along with an application under Order 7 Rule 14 of the CPC was filed by the plaintiffs. Such an application is not in consonance with Order 7 Rule 14 of the CPC. Specific procedure has been prescribed in Order 7 Rule 14 of the CPC for producing the documents, which has not been complied with by the plaintiffs and in most casual manner, firstly, it was produced along with an application under Order 18 Rule 17 of the CPC and thereafter in I.A.No.3, it was simply stated that documents earlier produced along with an application under Order 18 Rule 17 of the CPC be taken on record, which is not fulfilling the requirement of Order 7 Rule 14 of the CPC, as such, the trial Court is absolutely justified in rejecting the applications.

7. Coming to next submission of learned counsel for the petitioners that I.A.No.2 was filed on 27.8.2018 and I.A.No.3 was filed on 18.1.2019, but it was decided only on 12.7.2019 and in the meanwhile, the trial progressed and thereby, the plaintiffs' suffered prejudice. It is true that the trial Court took ten months time in

disposing of I.A.No.2, an application filed under Order 18 Rule 17 of the CPC and six months time in disposing of I.A.No.3, an application under Order 7 Rule 14 of the CPC, which is absolutely unreasonable time taken by the trial Court in disposing of interlocutory applications and in the meanwhile, evidence of some of the defendants was also recorded. It is expected from the judicial officer handling the suit that interlocutory applications are also decided promptly, as such, taking ten months time in disposing of an application under Order 18 Rule 17 of the CPC cannot be countenanced. Likewise, taking six months time in disposing of the application under Order 7 Rule 14 of the CPC also cannot be said to be reasonable time and therefore, taking of unreasonable time in disposing of interlocutory applications by learned trial Court cannot be approved. However, that will not make the impugned order bad in law.

- 8.** Before parting with the record, it would be appropriate to notice here that this Court by order dated 6.9.2019 only sought explanation from the learned First Additional District Judge for taking unreasonable time in deciding two interlocutory applications as argued by learned counsel for the petitioners. Learned First Additional District Judge has sent his explanation by memo dated 7.9.2019 in which he enclosed the photocopies of order-sheets recorded in that civil suit from 23.10.2017 to 12.7.2019. From perusal of the order-sheets, it appears that learned First Additional District Judge took the original records and got it photocopied and sent it to this Court though it has

been attested by him. The course adopted by the learned First Additional District Judge is clearly unacceptable as the suit is pending in his Court and he is custodian of the Court record, but he cannot get the record pending in his Court photocopied and send it to this Court without the leave of competent authority, particularly when it was not called for. Taking the original record and getting it photocopied without leave is the procedure unknown and impermissible in law. Such a practice on the part of the learned First Additional District Judge/Judicial Officer is deprecated.

9. Accordingly, the writ petition deserves to be and is hereby dismissed. The concerned trial Court is directed to expedite the trial and decide the suit expeditiously.
10. A copy of this order be sent to the First Additional District Judge, Baloda Bazar for information and needful.
11. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-