CGHC010061422026 2026:CGHC:45388

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 233 of 2026

1 - Jitendra Kumar S/o Baijnath Pandey Aged About 45 Years (Now Aged About 48 Years, R/o Amaru, Tahsil Pendra Road, District Gaurela Pendra Marwahi (C.G.)

2 - Nirmal Kumar S/o Baijnath Pandey Aged About 43 Years R/o Amaru, Tahsil Pendra Road, District Gaurela Pendra Marwahi (C.G.)

3 - Kamal Kumar S/o Baijnath Pandey Aged About 40 Years R/o Amaru, Tahsil Pendra Road, District Gaurela Pendra Marwahi (C.G.)

... Petitioner(s)

versus

1 - Shivlakhan Pandey S/o Late Shri Hiramani Pandey Aged About 68 Years R/o Village Amaru, Tahsil Pendra/ Sakola, District Gaurela Pendra Marwahi (C.G.)

2 - Ramlakhan Pandey S/o Late Shri Hiramani Pandey Aged About 76 Years R/o Village Amaru, Tahsil Pendra/ Sakola, District Gaurela Pendra Marwahi (C.G.)

3 - Baijnath Pandey S/o Late Shri Hiramani Pandey Aged About 85 Years R/o Village Amaru, Tahsil Pendra/ Sakola, District Gaurela Pendra Marwahi (C.G.)

4 - State Of Chhattisgarh Through Collector, District Gaurela Pendra Marwahi (C.G.)

... Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner(s)	:	Ms. Sanjana Ahirwar, Advocate on behalf of Mr. J. K. Gupta, Advocate.
For Respondent No. 1 to 3	:	None, though served.
For State/Respondent No. 4	:	Mr. Siddhant Tiwari, Panel Lawyer.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.
Order on Board

27/10/2026

1. Heard.

2. Present is a writ petition filed by the petitioners under Article 227 of the Constitution of India against the impugned order dated 14.01.2026 passed by the learned Second Civil Judge, Senior Division, Pendra Road, District Bilaspur, in Civil Suit No. 92/2022, whereby the right of the plaintiffs to lead evidence has been forfeited and the case was fixed for recording the defendants' evidence.

3. Learned counsel for the petitioners would submit that the petitioners are the plaintiffs before the learned trial Court, who are prosecuting a suit for declaration of title and permanent injunction over the suit property, i.e., agricultural land measuring a total area of 19.38 acres, comprising 13 different Khasra numbers situated at Village Amaru, Tahsil Pendra (new Tahsil Sakola), District Gaurela-Pendra-Marwahi. The learned trial Court has framed the issues and thereafter proceeded with the recording of the plaintiffs' evidence. Though several opportunities were granted to the plaintiffs to record their evidence, for one reason or another, they could not get their witnesses examined, and the case was adjourned from time to time. On 14.01.2026, the plaintiffs filed an application stating that their son was suffering from an ailment and that they were engaged in his treatment and could not produce their witnesses for examination. They prayed for further time to produce their witnesses for examination. However, the learned trial Court rejected the application filed by the plaintiffs and forfeited their right to lead evidence. She would further submit that forfeiting the right of the plaintiffs to lead evidence would prejudice their right to prosecute

the suit, and by forfeiting their right, they may not be able to prove their case against the defendants. She would also submit that the case was fixed for recording the defendants' evidence, but the examination of the defendants had not yet commenced. Therefore, one more opportunity may be granted to the plaintiffs to lead their evidence and prove their case. The learned trial Court, instead of forfeiting the right of the plaintiffs to lead evidence, could have adjourned the case to another date after imposing appropriate costs. Therefore, the impugned order may be set aside, and one opportunity may be granted to the plaintiffs to record their evidence.

4. None appeared for respondent Nos. 1 to 3, though served.

5. I have heard learned counsel for the petitioners, perused the documents annexed with the petition, and gone through the impugned order.

6. From the impugned order dated 14.01.2026, it transpires that repeated opportunities were granted to the plaintiffs to record their evidence from 13.11.2024 till 02.12.2025, and ultimately, on 14.01.2026, after rejecting the application filed by the plaintiffs, their right to lead evidence was forfeited.

7. It is well settled that the right of a party to lead evidence is an important facet of the right to effectively prosecute or defend a civil proceeding, and such right ought not to be denied in a manner that results in shutting out the party from establishing its case on merits, unless the conduct of the party is such as to justify such a consequence. Though the Court has ample power under the Code of Civil Procedure to regulate proceedings and decline repeated or unjustified adjournments, the power to forfeit the right to lead evidence must be exercised

cautiously and in furtherance of the ultimate object of adjudication on merits. In the present case, notwithstanding the repeated adjournments sought by the plaintiffs, considering that the suit involves a declaration of title, partition and possession, and permanent injunction, and that forfeiture of their right to lead evidence would substantially impair their ability to prove their case, this Court is of the considered view that the ends of justice would be served by affording them one final opportunity to lead their evidence, subject to payment of appropriate costs and the condition that no further opportunity shall be granted.

8. Accordingly, the impugned order dated 14.01.2026, whereby the right of the plaintiffs to lead evidence has been forfeited, is set aside. The learned trial Court is directed to fix a date and afford one opportunity to the plaintiffs to produce their evidence, subject to payment of costs of Rs. 3,000/- to the defendants before the learned trial Court. The plaintiffs shall keep all their witnesses present before the learned trial Court on the date fixed and shall ensure that their evidence is recorded without seeking any further adjournments, if there is no other impediment. It is further directed that, in the event the plaintiffs fail to avail themselves of the aforesaid opportunity, the learned trial Court shall be at liberty to proceed with the suit in accordance with law.

9. With the aforesaid direction, the petition stands **allowed**.

Sd/-

(**Ravindra Kumar Agrawal)**
Judge

Alok