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**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WP227 No. 334 of 2023**

Mohmmad Altaf S/o Late Shri Moh. Arif Aged About 40 Years R/o Gousiya Chouk, Nayapara Raipur (Plaintiff), District : Raipur, Chhattisgarh

**... Petitioner**

**versus**

**1 -** C.G. Waqf Board Through Chief Executive Officer Of Waqf Board, Sector-03, C-12 Devendra Nagar, District : Raipur, Chhattisgarh

**2 -** Presedent Of Halai Meman Jamat, Raipur R/o Narmada Para, Gudhiyari, Raipur, District : Raipur, Chhattisgarh

**3 -** Moh. Aslam (Died Through Lrs) As Per Hon'ble Court Order Dated 02-02-2026

**3.1 -** Saira Bano W/o Mohammad Aslam Aged About 49 Years R/o Gausiya Chowk Naya Para Raipur

**3.2 -** Mohammad Ashfaque S/o Mohammad Aslam Aged About 29 Years R/o Gausiya Chowk Naya Para Raipur

**3.3 -** Mohannad Afzal S/o Mohammad Aslam Aged About 27 Years R/o Gausiya Chowk Naya Para Raipur

**3.4 -** Shahista Bano D/o Md. Aslam Aged About 21 Years R/o Gausiya Chowk Naya Para Raipur

**3.5 -** Mohammad Ajahar S/o Mohammad Aslam Aged About 19 Years R/o Gausiya Chowk Naya Para Raipur

**Respondents**

(Cause title taken from Case Information System)

| | | |
|---|---|---|
| For Petitioner | : | Ms. Smita Jha, Advocate |
| For Respondents No. 1 | : | None |
| For Respondents No. 3(1) to 3(5) | : | None, though served. |

**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**Order on Board**

**28/10/2026**

Heard.

1. Present is a writ petition is filed by the petitioner under Article 227 of the Constitution of India against the order dated 06-12-2022 passed by Chhattisgarh State Wakf Tribunal, Raipur, in Case No. 2A/2013, whereby the right to lead evidence of the plaintiff has been forfeited.

2. Learned counsel appearing for the petitioner would submit that the petitioner is the plaintiff before the learned Chhattisgarh State Wakf Tribunal, Raipur, where he is prosecuting a suit under Section 83(2) of the Wakf Act, 1995, for setting aside the order dated 01-08-2011 passed by the defendant No. 1, declaring the sale deed dated 29-04-2011 executed by defendant No. 1 in favor of defendant No. 3 as null and void, also for grant of permission to execute sale deed to defendant No. 2 pursuant to the agreement dated 06-03-1997 and also for permanent injunction from possession of the plaintiff over the subject property of 2200 square feet of land bearing house No. 404 to 407. She would further submit that the said suit was filed by the petitioner on 14-03-2013 and issues have been framed and thereafter the case was fixed for recording evidence of the plaintiffs. On various occasions, the plaintiff appeared in the proceedings for recording of his evidence, but for one or other reason, his evidence could not be recorded and ultimately on 06-12-2022 when the plaintiff could not appear before the Chhattisgarh State Wakf Tribunal, Raipur, for recording of his evidence,

his right to lead evidence has been forfeited and the case was fixed for defendant's evidence.

3. She would further submit that the petitioner is diligently prosecuting his suit since 2013 and his property rights are involved in the suit by depriving him from leading evidence would adversely affect his property rights and it is prejudicial to him. She prayed that one opportunity may be granted to the plaintiff to lead his evidence by awarding appropriate cost upon him.

4. I have heard learned counsel for the petitioner and perused the documents annexed with the petition.

5. No one appears on behalf of the respondents, though served.

6. From perusal of the impugned order dated 06-12-2022 passed by Chhattisgarh State Wakf Board, Raipur, it transpires that at 1:00 PM when the plaintiff had not appeared in the proceeding, his right to lead evidence has been forfeited and the case was fixed for evidence of the defendants. Along with the petition, the petitioner has also annexed the order sheets of the learned trial Court from 10-01-2022 up till 28-02-2023 (Annexure P-3) and from perusal of the order sheets thereof, it transpires that on 10-01-2022 the plaintiff was appeared for his cross-examination, however, due to ailment of his counsel, he could not be cross-examined. On 01-02-2022 and 14-02-2022, due to non-availability of the counsel of the petitioner, the dates were adjourned. On 23-02-2022, the petitioner was again present for his cross-examination, but due to paucity of time, he could not be cross-examined. Again on 09-03-2022, he absent in the proceeding and the

case was again adjourned. Likewise, the proceedings were adjourned time to time for one or other reason and the fact remains that the plaintiff could not be cross-examined till his right to lead evidence has been forfeited on 06-12-2022.

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 plaintiff, considering that the suit involves declaration of title, partition and possession and also permanent injunction and forfeiture of his right to lead evidence would substantially impair his ability to prove his case, this Court is of the considered view that the ends of justice would be served by affording him one final opportunity to lead his evidence, subject to payment of appropriate costs and a condition that no further opportunity shall be granted.

8. Accordingly, the impugned order dated 06-12-2022, whereby the right of the plaintiff to lead evidence has been forfeited, is set aside. The learned trial Court is directed to fix a date and to afford one opportunity to the plaintiff to produce his evidence, subject to payment of costs of Rs. 3,000/- payable to the legal representatives of the defendant No.3

before the learned Chhattisgarh State Wakf Board, Raipur. The plaintiff shall keep his remaining witnesses present before the learned trial Court on the date fixed and shall ensure that their evidence is recorded without seeking any further adjournment. It is further directed that, in the event the plaintiff fails to avail 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

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