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**NAFR**

# HIGH COURT OF CHHATTISGARH AT BILASPUR

**WP227 No. 1405 of 2026**

**1 -** Alok Sirmour S/o Late Bholanath Simour, Aged About 49 Years, R/o C/268, 20, Smriti Nagar Bhilai, Nehru Nagar, Near Sub-Station, Bhilai, District Durg Chhattisgarh.

**... Petitioner**

**versus**

**1 -** Smt. Latika Sirmour W/o Alok Sirmour, Aged About 45 Years, R/o C/o Anju Banchhor Advocate/ Notary, B-13, Behind Rajgharana Restaurant Ravinagar Pandari Raipur, District Raipur, Chhattisgarh.

**... Respondent**

(Cause-title taken from Case Information System)

For Petitioner : Mr. Palash Agrawal, Advocate.

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

**05-11-2026**

**1.** Heard.

**2.** The present is a writ petition filed by the petitioner under Article 227 of the Constitution of India against the order dated 22-10-2026 passed by the learned Fourth Additional Principal Judge, Family Court Raipur in Case No.HMA/884/2026 whereby the right to lead evidence of the applicant has been forfeited and the case has been fixed for non-applicant's evidence.

**3.** Learned counsel for the petitioner would submit that the petitioner is applicant before the learned Family Court where he is prosecuting an application for grant of divorce from the non-applicant. The said application was earlier filed at Family Court Durg, however, the same was transferred to the learned Family Court Raipur by the order dated 30-07-2026 passed by

the coordinate Bench of this Court in TPC No.30/2026. The applicant's case was fixed on 03-10-2026 for further hearing. On 03-10-2026 the case was fixed for 22-10-2026 for recording applicant's evidence, however, due to some medical ailment the applicant could not appear before the learned Family Court and he filed an application for adjournment of the proceeding along with the supporting out patient record dated 21-10-2026 and medical certificate. The learned Family Court rejected the application filed by the petitioner and forfeited the right to lead evidence of the applicant and fixed the case for non-applicant's evidence. He would further submit that the applicant was restrained from appearing before the learned Family Court due to his ill health as he was suffering from high blood pressure and he was advised to take rest from 21-10-2026 to 24-10-2026. Restricting the applicant from leading his evidence would prejudice his case and no proper adjudication would be done in the case on his application. Therefore, one more opportunity may be granted to the applicant to lead his evidence. He would further submit that there would be no prejudice to the non-applicant as she would have every right to cross-examine the applicant's evidence, therefore, the applicant may be permitted to lead his evidence.

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

**5.** From the order dated 30-07-2026 passed by coordinate Bench of this Court in TPC No.30/2026 it transpires that the present case has been transferred from Family Court Durg to Family Court Raipur with direction that the proceeding of the case should be concluded within a further period of four months from the date of receipt of the record. Vide order dated 03-10-2026 Annexure-P/1, it transpires that the learned Family Court fixed the case for applicant's evidence on 22-10-2026 and directed the applicant to remain present for recording his evidence. However, on 22-10-2026 an application was made by the applicant for adjournment of the proceeding on the ground

that he is suffering from high blood pressure and advised by the doctor to take rest. Along with the application he filed the medical document of out patient record dated 21-10-2026 and medical certificate issued by his doctor of Govt. Hospital Supela. Though, the applicant has alleged to be suffered from high blood pressure, however the case may be adjourned instead of forfeiting the right of the applicant to lead evidence, if his application is prima facie supported by the medical document, and on the first occasion when the case was fixed on 22-10-2026 for recording his evidence. From the documents annexed with the petition it cannot be said that he was negligent in prosecuting his case as there is only a single default in which he could not appear for recording his evidence and filed his application for adjournment of the proceeding for another day supported by the medical documents.

**6.** 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 which deprives a party of an opportunity to establish its case on merits, unless the conduct of such party warrants such a consequence. Though the Court has ample power to regulate its proceedings and decline unnecessary adjournments, the power to forfeit the right to lead evidence must be exercised cautiously and judiciously, keeping in view the ultimate object of adjudication on merits. In the present case, it is evident from the documents placed on record that the petitioner could not appear before the learned Family Court on 22-10-2026 on account of his medical condition, i.e., high blood pressure, and had duly supported his application for adjournment by placing on record the out patient record dated 21-10-2026 and the medical certificate issued by the concerned doctor. Further, it is apparent that the petitioner had not repeatedly sought adjournments for recording his evidence and the default in question appears to be a solitary instance occasioned by his ill health. In

such circumstances, forfeiture of his right to lead evidence would cause serious prejudice to his case and substantially impair his opportunity to establish the grounds pleaded in his application for divorce. Therefore, considering the facts and circumstances of the case, this Court is of the considered view that the ends of justice would be served by affording the petitioner one more opportunity to lead his evidence, subject to payment of appropriate cost and the condition that no further opportunity shall be granted to him for the said purpose.

**7.** Accordingly, this Court is of the considered opinion that the order passed by the learned trial Court forfeiting the right to lead evidence by the applicant suffers from illegality and jurisdictional error which requires interference. The impugned order is therefore set aside and the applicant/petitioner is permitted to lead evidence before the learned Family Court subject to payment of the cost of Rs.3000/- payable to the non-applicant before the Family Court. The petitioner/applicant is directed to appear before the concerned Family Court on the next date fixed before it, i.e., 12-11-2026 for recording his evidence and shall not take any adjournment for his evidence. The learned Family Court concerned is further directed to proceed in accordance with law with the case on its own merits.

**8.** The present writ petition is allowed to the extent indicated hereinabove.

Sd/-
**(Ravindra Kumar Agrawal)**
**Judge**

Aadil