



2026:CGHC:13062



2026:CGHC:13062

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 314 of 2026

Santoshi Bai D/o Late Jhangluram Rohidas, W/o Kapil Sarvash, Aged About 51 Years R/o Village Bishrampur, Hindadih, Police Station And Tehsil Seepat, District- Bilaspur, Chhattisgarh (Defendant No. 1)

... Petitioner(s)

versus

1 - Sushila Bai Rohidas D/o Late Jhanglu Ram Rohidas W/o Vishram Rohidas Aged About 45 Years R/o Village Bishrampur, Hindadih Police Station And Tehsil Seepat, District- Bilaspur, Chhattisgarh

2 - Kaushalya Bai D/o Late Jhanglu Ram W/o Late Kanshiram R/o Village Bishrampur, Hindadih Police Station And Tehsil Seepat, District- Bilaspur, Chhattisgarh

3 - State Of Chhattisgarh Through Collector, Bilaspur (C.G.)

... Respondent(s)

For Petitioner(s) : Mr. Yash Yadav, Advocate

For Respondent(s) : Ms. Isha Jajodia, Panel Lawyer for the State

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on Board



18/03/2026

1. The present writ petition under article 227 of the Constitution of India has been filed by the defendant No.1 against the impugned order dated 26.02.2026 passed by learned Fourth Additional Judge to the Court of First Civil Judge, Senior Division, Bilaspur in Civil Suit No. (A)/27/2024 whereby the application under Section 151 of CPC filed by the defendant No.1 for permission to cross-examine the plaintiff has been rejected.
2. Learned counsel appearing for the petitioner would submit that in the civil suit filed by the plaintiff before the learned trial Court, the case was fixed for plaintiff's evidence on 06.02.2026, though the plaintiff was appeared for recording of his evidence, however, due to ailment of the counsel representing the defendant No.1, he could not appeared and at about 4:10 P.M. his junior Advocate appeared before the learned trial Court and requested for adjournment, however, instead of adjourning the case, his right to cross-examine the plaintiff has been forfeited and the trial Court proceeded for further plaintiff's evidence. On 18.02.2026, the defendant No.1 filed an application under Section 151 of CPC for permission to cross-examine the plaintiff but the same has been rejected by the learned trial Court vide its order dated 26.02.2026 by observing the conduct of the defendant No.1. He would further submit that the defendant No.1 is ready and willing to cross-examine the plaintiff.
3. He would further submit that the matter pertains to property rights of the parties as the civil suit was filed for partition and permanent injunction of the property, the parties are real brother and sisters and serious property dispute exists between them. It is only due to ailment of his senior counsel who is representing the defendant No.1 they sought



adjournment, therefore, the defendant No.1 may be permitted to cross-examine the plaintiff.

4. I have heard learned counsel for the petitioner and perused the material annexed with the petition.
5. From perusal of the order sheets, it transpires that on 06.02.2026 up to 4:10 P.M. neither the defendant No.1 nor her counsel appeared in the proceeding for cross-examination of the plaintiff. It is observed by the learned trial Court that the plaintiff was appeared for recording of her evidence from 11:00 A.M. On that day at 4:10 P.M., when the junior Advocate to the counsel who is representing the defendant No.1, appeared in the proceeding and requested for adjournment, the same was denied and the right to cross-examine the plaintiff was forfeited and fixed the case for recording of further plaintiff evidence. On 18.02.2026, an application under Section 151 of CPC has been filed by the defendant No.1 supported by an affidavit of the junior counsel. The learned trial Court has rejected the application of the defendant No.1 on the ground that on 06.02.2026 the examination in chief of the plaintiff was recorded and since, up to 4:00 P.M., the defendant No.1 was not appeared and the witness is the resident of a rural area, far away from the Bilaspur and the defendant No.1 is negligent to remain present either herself or her counsel, her right to cross-examine the plaintiff was forfeited.
6. It further transpires from the copy of the plaint annexed in the writ petition as Annexure – P/3, that the parties are brother and sisters and there is serious dispute exists for partition of the property between them. Definitely, in absence of cross-examination of the plaintiff, it would affect the property rights of the defendant. The cross-examination of the witness



is a valuable right of the opposite party to check the credibility and genuineness of the claim raised by the opposite party which cannot be taken away by the simple reason of the conduct of the party or their counsel.

7. True, it is that the witness is the resident of a rural area far away from the Bilaspur but the witness who appeared on that day Sushila Bai Rohidas was the plaintiff and she may be compensated by awarding cost for her inconvenience, but taking view of forfeiting the right to cross-examine the plaintiff would amounts to penalise the party in absence of her counsel.
8. Therefore, this Court is of the view that one opportunity may be provided to the defendant No.1 to cross-examine the plaintiff subject to award some cost to the defendant No.1.
9. Accordingly, the impugned order dated 26.02.2026 (Annexure P-1) is set aside and the application filed by the petitioner/defendant No.1 under Section 151 of CPC is allowed.
10. The learned trial Court is directed to fix the date for cross-examination of the plaintiff by the defendant No.1 and permit her counsel to cross-examine the plaintiff. It is further directed that the defendant No.1 shall not take any unnecessary adjournment. The setting aside of the order dated 26.02.2026 is subject to payment of cost of Rs. 3000/- which is payable to the plaintiff, when she appeared for recording of her evidence/cross-examination.
11. With the aforesaid observation, the writ petition is **allowed**.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE