



2026:CGHC:9942



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 1338 of 2025

- Smt. Dino @ Dinu W/o Dinesh Aged About 35 Years R/o Village Saloni, P.O.- Chuhi, Tehsil- Nagri, Sub-District- Kukrel, District- Dhamtari (C.G.)

... **Petitioner**

versus

1. Kundan Singh Gond, S/o Late Pyaari Gond, Aged About 72 Years, R/o Gondpara, Purani Basti, Mahasamund (C.G.).
2. Smt. Rukhmani, Wd/o Bhagwan Singh Gond, Aged About 65 Years, R/o Near Mahamaya Mandir, Bazaar Paara, Mahasamund (C.G.).
3. Mukesh Dhruv, S/o Bhagwan Singh Dhruv, Aged About 31 Years, R/o Near Mahamaya Mandir, Bazaar Paara, Mahasamund (C.G.).
4. Suman Dhruv, D/o Bhagwan Singh Dhruv, Aged About 28 Years, R/o Near Mahamaya Mandir, Bazaar Paara, Mahasamund (C.G.).
5. Savitri Bai, Wd/o Makhan Dhruv, R/o Near Mahamaya Mandir, Bazaar Paara, Mahasamund (C.G.).
6. Minor Varun Dhruv, S/o Late Makhan Dhruv, Aged About 7 Years, Minor Represented By Mother Savitri Bai, Wd/o Makhan Dhruv, R/o Near Mahamaya Mandir, Bazaar Paara, Mahasamund (C.G.).
7. Minor Gahnesh Kumar Dhruv, S/o Late Makha Dhruv, Aged About 5 Years, Since Minor Represented By Mother Savitri Bai, Wd/o Makhan Dhruv, R/o Near Mahamaya Mandir, Bazaar Paara, Mahasamund (C.G.).
8. Smt. Bharti, W/o Karan Sonwani, Present Address Shankar Nagar, Ward No.14, Mahasamund (C.G.).
9. Kunti Bai, D/o Late Pyaari Gond, W/o Udairam Dhruv, R/o Village Joba, P.O. Joba, Tehsil And District Mahasamund (C.G.).
10. Ramkumari, W/o Late Ishwar, R/o Kumhar Paara, Ward No.25, Mahasamund (C.G.).
11. Rupesh, S/o Late Ishwar, R/o Kumhar Paara, Ward No.25, Mahasamund (C.G.).
12. Lakshmi, D/o Late Ishwar, R/o Kumhar Paara, Ward No.25, Mahasamund (C.G.).
13. Durga, D/o Late Ishwar, R/o Kumhar Paara, Ward No.25, Mahasamund (C.G.).
14. Jeevrakhan Gond, S/o Late Pyaari Gond, R/o Village And Post Sorid, Tehsil And District Mahasamund (C.G.).
15. Madhuri, W/o Balram Gond, R/o Village Rampur, P.O. Jhalap, Tehsil And District Mahasamund (C.G.).
16. Smt. Mithila Gond, Wd/o Dilendra Alias Jitendra Gond, R/o Shitlapara, Near Shitla Mandir, Mahasamund (C.G.).



17. Vishakha, D/o Pyaari Gond, W/o Chetan Gond, R/o Village Tengnabasa, P.O. Chura, Tehsil Chura, District Gariyaband (C.G.).
18. State Of Chhattisgarh, Through Collector, Mahasamund, District Mahasamund (C.G.).

... Respondents

(Cause title taken from Case Information System)

For Petitioner	:	Mr. Pawan Kesharwani, Advocate.
For Respondents No.1, 9 & 15	:	Mr. Shubhank Tiwari, Advocate.
For State/Respondent No.18	:	Mr. R.C.S. Deo, P.L.
For Respondents No.2 to 8 & 10 to 14 & 16 to 17	:	None, despite repeated calls.

Hon'ble Shri Justice Sachin Singh Rajput

Order on Board

26/02/2026

1. Heard.
2. This writ petition has been filed by the petitioner under Article 227 of the Constitution of India, seeking following reliefs:-

“10.1 That this Hon'ble Court may graciously be pleased to call for the entire records of the case from the Court below.

10.2 That this Hon'ble Court may kindly be set aside the order dated 17.11.2025 passed by the learned First Civil Judge, Senior Division, Mahasamund (C.G.) in Civil Suit No.51A/2022 titled Smt. Dino @ Dinu versus Kundan Singh Gond & Others.

10.3 That this Hon'ble Court may further be pleased to allow the Plaintiff's Application under Order XVII Rule I of CPC dated 17.11.2025 and permit the Plaintiff to lead her evidence in accordance with law.

10.4 Any other relief/reliefs deemed fit and proper in the facts and circumstances of the case may also kindly be granted in the interest of justice.”

3. Vide order dated 17.11.2025, the learned First Civil Judge, Senior Division, District Mahasamund (C.G.) has rejected the application filed by the petitioner/plaintiff under Order XVII Rule I of CPC for grant of time to lead the evidence this is under challenge before this Court in this writ petition.



4. Learned counsel for the petitioner submits that petitioner had filed an civil suit seeking relief of declaration of title in alternative possession in respect of the suit property, which is described in the Schedule appended with the plaint. Written statement has filed by the respondents and additional issues have already been framed. The matter was listed for evidence on couple of occasions and the learned Civil Judge granted time to the petitioner to lead the evidence. During this period, efforts were made with regard to the settlement amongst the parties. However, on 17.11.2025, when the matter was listed for plaintiff's evidence, plaintiff met with an accident and was ill, thus, she could not appear before the learned Civil Judge and moved an application under Order XVII Rule I of CPC for adjourning the matter, but the same has been rejected by the learned Civil Judge vide impugned order. He submits that though, various opportunities were granted to the petitioner to lead the evidence, however, if the petitioner is not allowed to lead the evidence, the entire suit of the petitioner would render *otiose*. He submits that only one opportunity may be granted to the petitioner to lead her evidence.
5. Mr. Tiwari, learned counsel appearing for the respondents No.1, 9 & 15 opposes the submission and submits that 8 opportunities have been granted to the petitioner to record evidence of her witnesses, but on every occasion, she failed to do so, despite of cost being imposed upon her. The cost imposed earlier has also not been paid by the petitioner/plaintiff. Thus, the instant writ petition deserves to be rejected, as there is no illegality or irregularity in the impugned order.
6. I have heard learned counsel for the parties and perused the material available on record carefully.
7. Ofcourse, from the order sheets appended with this writ petition, it appears that certain opportunities were granted to the petitioner to lead her evidence. However, on that day when the matter was listed for plaintiff's evidence, an



application filed by the plaintiff/petitioner under Order XVII Rule 1 of CPC stating *inter alia* that petitioner met with an accident, hence the same may be disposed, but the learned Civil Judge rejected the same.

8. After hearing the learned counsel for the parties and considering the facts and circumstances of the case, in the interest of justice, this Court is of the opinion that one last opportunity may be granted to the petitioner to lead her evidence. Thus, the impugned order is hereby set aside, subject to payment of cost of Rs.1,000/- to the defendants. The cost shall be paid to the defendants before the learned Civil Judge.
9. It is observed that on the next date of hearing, the learned Civil Judge shall fix a date for evidence of the plaintiff's witnesses and on the that day, plaintiff shall make present her witnesses for recording their evidence. It is further observed that earlier the cost imposed by the learned Civil Judge upon the plaintiff/petitioner shall also be paid by the petitioner/plaintiff to the defendants.
10. Accordingly, the instant writ petition is allowed as indicated hereinabove, with the aforesaid observations and direction.
11. Interlocutory application(s), pending if any, also stands disposed of.

Sd/-
(Sachin Singh Rajput)
Judge