



2026:CGHC:9948



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 26 of 2026

1. Rupkeliya D/o Late Chakar Bargaah Aged About 69 Years R/o Gajarmuda, Tahshil Lundra, District Surguja (C.G.).
2. Smt. Sonkeliya D/o Late Chakar Bargaah Aged About 64 Years R/o Gajarmuda, Tahshil Lundra, District Surguja (C.G.).
3. Smt. Ramkeliya D/o Late Chakar Bargaah Aged About 59 Years R/o Gajarmuda, Tahshil Lundra, District Surguja (C.G.).

... **Petitioners****versus**

1. Smt. Durga Bai Lohar W/o Devlal Lohar Aged About 51 Years Caste Lohar, R/o Kareshar, Post Lundra, Tahshil Lundra, District Surguja, Chhattisgarh.
2. Kendla Bargaah S/o Chakar Bargaah Aged About 69 Years Caste - Bargaah, R/o Village Kareshar, Post Lundra, Tahshil Lundra, District Surguja, Chhattisgarh.
3. State Of Chhattisgarh, District Surguja, Chhattisgarh.

... **Respondents**

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Navneet Kumar Yadav, Advocate.
For Respondent No.1	:	Mr. Sunil Tripathi, Advocate.
For State/Respondent No.3	:	Mr. Amandeep Singh, P.L.

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 kindly be pleased to call for the entire records pertaining to the case.



10.2 That this Hon'ble Court may kindly pleased to allow this petition and set aside the impugned Order dated 23.06.2025 passed by the Second Civil Judge, Junior Division, Ambikapur, District Surguja (C.G.) in Civil Case No.209A/2016 between Rupkeliya & Others versus State of Chhattisgarh & Others in the interest of Justice. And recall the witnesses for examination and also allow the application under Order XVII Rule I of CPC filed by the petitioners before the court below.

10.3 That any other relief/order which may deem fit and just in the facts and circumstances of the case, in the interest of justice.”

3. Vide order dated 23.06.2025 passed in Civil Suit No209A/2016, the learned Second Civil Judge, Junior Division, Ambikapur, District Surguja (C.G.) has rejected the application filed by the petitioners/plaintiffs under Order XVII Rule I of CPC for grant of time to lead the evidence is under challenge before this Court.
4. Learned counsel for the petitioners would submit that petitioners had filed an civil suit seeking relief of permanent injunction, declaration of title and declaration of documents as null and void in respect of the suit property, which is described in the Schedule appended with the plaint. The matter was listed for evidence on couple of occasions and the learned Civil Judge granted time to the petitioners to lead the evidence, however, on 23.06.2025, when the matter was listed for plaintiffs' evidence, plaintiffs' were unable to appear before the learned Civil Judge, as they are old aged persons, hence they 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 petitioners to lead the evidence, however, if the petitioners are not allowed to lead the evidence, the entire suit of the petitioners would render *otiose*. He submits that only one opportunity may be granted to the petitioners to lead their evidence.



5. Mr. Tripathi, learned counsel appearing for the respondent No.1 opposes the submission and submits that 4 opportunities have been granted to the petitioners to record evidence of their witnesses, but on every occasion, they failed to do so, despite of cost being imposed upon them. The cost imposed earlier has also not been paid by the petitioners/plaintiffs. 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 petitioners to lead their evidence. However, on that day when the matter was listed for plaintiffs' evidence, an application filed by the plaintiffs/petitioners under Order XVII Rule I of CPC stating *inter alia* that petitioners are old aged persons and are unable to appear before the Court, 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 petitioners to lead their evidence. Thus, the impugned order is hereby set aside, subject to payment of cost of Rs.1,000/- paid by the petitioners 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 plaintiffs' witnesses and on that day, plaintiffs shall make present their witnesses for recording their evidence. It is further observed that earlier the cost imposed by the learned Civil Judge upon the plaintiffs/petitioners shall also be paid by them 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