

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP227 No. 79 of 2024**

1. Smt. Anita Thakur W/o Late Mohan Lal Thakur Aged About 48 Years At Present R/o Village- Chikhla Kasa, Tahsil- Doundi, District : Balod, Chhattisgarh
2. Vedant S/o Late Mohan Lal Thakur Aged About 12 Years At Present R/o Village- Chikhla Kasa, Tahsil- Doundi, District : Balod, Chhattisgarh
3. Ku. Luni Aged About 15 Years No. 2 And 3 are Minors through Natural Guardian Mother Smt. Anita Thakur The Petitioner No. 1at Present R/o Village- Chikhla Kasa, Tahsil- Doundi, District : Balod, Chhattisgarh

**---- Petitioners**

**Versus**

1. Youshmita Thakur D/o Late Mohan Lal Thakur Aged About 20 Years R/o Village- Mudkhusara, Post- Bheemkanhar, Tahsil- Doundilohara At Present R/o Near Stadium, Beside Goutam Hospital, Manpur, Tahsil- Manpur District- Rajnandgaon (Chhattisgarh) Now District- Mohla- Manpur Ambagarh Chowki
2. Smt. Padma Thakur W/o Late Mohan Lal Thakur Aged About 48 Years R/o Near Stadium, Beside Goutam Hospital, Manpur, Tahsil- Manpur District- Rajnandgaon (Chhattisgarh) Now, District : Mohla-Manpur-Ambagarh Chowki, Chhattisgarh
3. State of Chhattisgarh Through- Collector, District : Balod, Chhattisgarh

**---- Respondents**

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For Petitioners	: Mr. Rakesh Kumar Thakur, Advocate
For State	: Mr. Md. Ruhul Ameen Memon, P.L.

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**Hon'ble Shri Justice Narendra Kumar Vyas**

**Order on Board**

**31.01.2024**

1. Heard on admission.
2. The petitioners/defendants No. 2 to 4 have preferred the present writ petition under Article 227 of the Constitution of India against the order dated 21.12.2023 passed by the learned Civil Judge, Class-2, Dalli Rajhara, District Balod (C.G.) in Civil Suit No.

4A/2022 by which the application filed by petitioners/defendants No. 2 to 4 under Order 17 Rule 1 of the C.P.C. to cross examine the plaintiff/respondent No. 1 witnesses has been rejected

3. The brief facts reflected from the record are that the plaintiff/respondent No. 1 has filed a civil suit for declaration of title, possession and permanent injunction of the suit property as described in the plaint and the plaintiff/respondent No. 1 has prayed that plaintiff/respondent No. 1, respondent No. 2 and petitioner No. 2 are entitled to get 1/4th share over the land situated at Village Chikhlakasa, Tehsil-Doundi, District – Balod.
4. The petitioners/defendants No. 2 to 4 have filed written statement denying the allegations and have contested the case. On the pleadings of the parties, the learned trial Court has framed the issues and thereafter fixed the case for plaintiff's evidence. The plaintiff has submitted his examination-in-chief by way of an affidavit under Order 18 Rule 4 of the C.P.C.. On 22.06.2023 the matter was adjourned to 22.09.2023 for cross examination of the plaintiff. On 25.09.2023 learned counsel for the plaintiff sought time which was allowed and thereafter the matter was adjourned to 28.10.2023 and on the said date also learned counsel for the plaintiff sought for adjournment which was considered and allowed by the learned trial Court. Thereafter the matter was listed on 28.11.2023 and on that date learned counsel for petitioners/defendants No. 2 to 4 has sought time to cross-examine the witnesses wherein the learned trial Court has adjourned to case to 21.12.2023 for cross-

examination and on that day again the adjournment was sought by the petitioners/defendants No. 2 to 4 which was rejected and the right to cross-examine the petitioners/defendants No. 2 to 4 witnesses has been closed. This order is being assailed by the petitioners/defendants No. 2 to 4 by filing this writ petition under Article 227 of the Constitution of India.

5. Learned counsel for the petitioners/defendants No. 2 to 4 would submit that the plaintiff was given two adjournments for cross-examination whereas he was given only one opportunity and thereafter the right to cross-examine was closed denying their right to participate in the proceedings which is against the principle of natural justice and fair play, as such, he would pray for quashing of the impugned order.
6. Considering the fact that the suit was filed in the year 2022 and subsequently the plaintiffs have also moved an application for exhibiting the documents on 11.01.2024 and the matter is now fixed for 02.02.2024.
7. Considering this aspect of the matter that the petitioners/defendants No. 2 to 4 were diligent towards contesting the case and the plaintiff has sought adjournment which was considered by the trial Court as the impugned order dated 21.12.2023 is quashed and the petitioners/defendants No. 2 to 4 will be given an opportunity to cross-examine the plaintiff's witnesses.
8. The witnesses shall appear before the learned trial Court on 02.02.2024 or any date convenient to plaintiff's witnesses or the

learned trial Court and thereafter the petitioners/defendants No. 2 to 4 will cross examine the witnesses.

9. With the aforesaid observation and direction, the present writ petition is allowed.

**Sd/-**  
**(Narendra Kumar Vyas)**  
**Judge**

Bhumika