



2025:CGHC:18836

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 375 of 2025

1. Smt. Naseema Ali W/o Late Shri Naushad Ali Aged About 33 Years
Occupation - House Wife, R/o House No. 46, Khanij Nagar, Puraina,
Telibandha, Raipur City, Tehsil And District - Raipur, Chhattisgarh
2. Adeeb Ali S/o Late Shri Naushad Ali Aged About 13 Years Minor
Through Mother And Natural Guardian Smt. Naseema Ali, R/o House
No. 46, Khanij Nagar, Puraina, Telibandha, Raipur City, Tehsil And
District - Raipur, Chhattisgarh
3. Ku. Alishba Ali S/o Late Shri Naushad Ali Aged About 9 Years Minor
Through Mother And Natural Guardian Smt. Naseema Ali, R/o House
No. 46, Khanij Nagar, Puraina, Telibandha, Raipur City, Tehsil And
District - Raipur, Chhattisgarh

... Petitioner(s)

versus

1. Smt. Sakeela Parveen W/o Habib Ulla Miyan, D/o Rajab Ali Aged About
31 Years Caste - Musalmaan, R/o House No. 46, Khanij Nagar,
Puraina, Telibandha, Raipur City, Tehsil And District - Raipur,
Chhattisgarh
2. Mus. Sabnoor Ali D/o Rajab Ali Aged About 28 Years Caste -
Musalmaan, R/o House No. 46, Khanij Nagar, Puraina, Telibandha,
Raipur City, Tehsil And District - Raipur, Chhattisgarh
3. Mus. Najma Ali D/o Rajab Ali Aged About 27 Years Caste - Musalmaan,
R/o House No. 46, Khanij Nagar, Puraina, Telibandha, Raipur City,
Tehsil And District - Raipur, Chhattisgarh
4. Smt. Salma Khatun W/o Rajab Ali Aged About 52 Years R/o House No.
46, Khanij Nagar, Puraina, Telibandha, Raipur City, Tehsil And District -
Raipur, Chhattisgarh
5. Rajab Ali S/o Noor Mohammad Aged About 70 Years Occupation -
Retired Employee, R/o House No. 46, Khanij Nagar, Puraina,
Telibandha, Raipur City, Tehsil And District - Raipur, Chhattisgarh

... Respondent(s)

For Petitioners	:	Mr. Pawan Shrivastava, Advocate
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Hon'ble Shri Justice Rakesh Mohan Pandey
Judgment On Board

25-04-2025

1) By way of this petition, the petitioners/ plaintiffs have challenged the order passed by the learned Eleventh District Judge, Raipur (C.G.), in Civil Suit No. 42-A/2019 dated 09.04.2025, whereby the application moved by the plaintiffs under Order 17 Rule 1 of CPC seeking adjournment has been rejected and the right of the plaintiffs to lead evidence has been closed.

2) Facts of the present case are that:-

(i) Plaintiffs filed a suit for declaration of title and permanent injunction inter-alia on the ground that the suit house bearing Plot No. 46, ad-measuring 1500 sq. ft situated at Rani Durgawati Ward No. 45, Khanij Nagar, Telibandha, Tehsil & District- Raipur (C.G.) was purchased through a registered sale-deed on 03.03.1994 and the consideration was paid by her husband. In the year 2005, plaintiff No. 1 was married to the son of defendants No. 4 and 5, namely, Naushad Ali. Naushad Ali took a loan of Rs. 5 lacs from Bajaj Fincorp. and constructed a house where plaintiff No. 1 is residing. After the death of Naushad Ali, defendant No. 5 executed a gift-deed in favor of defendant No. 4. The Plaintiffs filed a civil suit challenging the said gift deed.

(ii) Defendants filed their written statement and denied the plaint averments. Plaintiff No. 1 submitted her affidavit under Order 18 Rule 4 of CPC but her examination could not be

completed and the matter was set for remaining cross-examination for 09.04.2025. An application under Order 17 Rule 1 of CPC was moved on the ground that she was present before another Court in a criminal case.

(iii) The learned trial Court vide order dated 09.04.2025 held that the case was fixed for the plaintiffs' evidence on 24.12.2021 and till date, the same has not been completed. It was further held that the plaintiffs have taken adjournments on various dates. The learned trial Court mentioned the specific dates when the plaintiffs took adjournment which are – 25.01.2023, 30.01.2024, 20.02.2024, 18.03.2024, 21.10.2024, 13.12.2024, 06.01.2025 and 28.03.2025. The learned trial Court rejected the application seeking adjournment and also closed the right of the plaintiffs to lead evidence and the case was set for the defendants' witnesses.

3) Learned counsel for the petitioners submits that on 09.04.2025, plaintiff No. 1 appeared as an objector in the bail application filed under Section 483 of B.N.S.S, 2023 before the Additional Sessions Judge, FTC, Raipur (C.G.), therefore she could not remain present before the trial Court for cross-examination and other plaintiff-witnesses were also not present. He further submits that the application under Order 17 Rule 1 of CPC was moved on the ground that she had to appear in a criminal case and the learned trial Court should have allowed the application.

4) Heard Mr. Shrivastava at length and perused the documents.

5) Order 17 Rule 1 of CPC reads under:-

1. Court may grant time and adjourn hearing. -

The Court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the suits.

A bare reading of the provision makes it clear that the very provision empowers the Court to grant time to the parties and adjourn the hearing provided sufficient cause is shown. This rule allows for adjournment at any stage and requires the Court to record reasons for the adjournment in writing. However, it also limits a party to a maximum of three adjournments during the hearing of suits.

6) The key points about Order 17 Rule 1 of CPC are as under:-

- (i) The Court can grant time to the parties if sufficient cause is shown;
- (ii) The reasons for granting adjournment must be recorded in writing;
- (iii) A party is limited to a maximum of three adjournments during the course of the hearing of suits.

7) It is a well-settled principle of law that speedy trial is a legal right of a litigant. The Hon'ble Supreme Court in the matter of **Anita Kushwaha Versus Pushap Sudan** reported in **2016 (8) SCC 509** emphasizing the need for speedy justice pertinently observed as under:-

"Access to justice as a constitutional value will be a mere illusion; if justice is not speedy. Justice delay, it is famously said, is justice denied. If the process of administration of justice is so time consuming,

labourious, indolent and frustating for those who seek justice that it dissuades or deters from even considering resort to that process as an option, it would tantamount to denial of not only access to justice but justice itself."

Similarly, the Apex Court in the case of **Noor Mohammed Versus Jethanand** reported in **2013 (5) SCC 202** held as under:-

"Timely delivery of justice keeps the faith ingrained and establishes the sustained stability. Access to speedy justice is regarded as human right which is deeply rooted in the foundational concept of democracy and such a right is not only the creation of law but also a natural right."

The above-stated proposition of law aptly and perfectly applies to the facts of the case at hand.

- 8) In the present case, the suit was filed by the plaintiffs on 03.08.2019. It is evident from the order impugned that the case was set for the plaintiffs' evidence on 24.12.2021. Plaintiff No. 1 took adjournment on 25.01.2023, 30.01.2024, 20.02.2024, 18.03.2024, 21.10.2024, 13.12.2024, 06.01.2025 and 28.03.2025. The case was set for cross-examination of the plaintiffs' witnesses on 09.04.2025 but plaintiff No. 1 again moved an application under Order 17 Rule 1 of CPC inter-alia on the ground that she had to raise an objection in the bail application. The contents of the application clearly show that plaintiff No. 1 was present in the Court premises but failed to appear before the learned trial Court for cross-examination.
- 9) Justice should not only be done but manifestly appear to be done as speedy justice is a part of human right. Timely delivery of justice is part of human right and denial of speedy justice is a threat to the public

confidence in the administration of justice.

10) Looking at the facts and circumstances of this case, it can safely be concluded that the plaintiffs were not vigilant in pursuing their civil suit. The plaintiffs were granted 10 opportunities spanning over a period of four long years but they failed to make themselves available for the cross-examination, therefore, the learned trial Court rightly rejected the application moved under Order 17 Rule 1 of CPC and closed their right to lead evidence.

11) Consequently, this petition stands **dismissed**. No order as to cost(s).

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Ajinkya

WP227 No. 375 of 2025**Head Note**

Order 17 Rule 1 CPC - Speedy justice, timely justice and timely delivery of justice are legal rights of a litigant. Courts can grant time and adjourn the hearing of a case if sufficient cause is shown but it is limited to a maximum of three times.

आदेश 17 नियम 1 सी.पी.सी. - त्वरित न्याय, समय पर न्याय और न्याय का समय पर प्रदान किया जाना पक्षकार का विधिक अधिकार है। यदि पर्याप्त कारण दर्शित किए जाएं तो न्यायालय समय प्रदान कर सकता है और मामले की सुनवाई स्थगित कर सकता है, परंतु यह अधिकतम तीन बार तक ही सीमित है।