

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 213 of 2005

1. Smt.Ganesari W/o Late Sabaldeo, aged about 56 years,
2. Smt Kanchan Bai, W/o Sabaldeo, aged about 46 years,
3. Nemnarayan adopted son of Late Sabaldeo, s/o Ramprasad, aged about 20 years All are resident of village Bansajhal, Tahsil Sitapur, Distt. Surguja (C.G.)

---- Appellants

Versus

1. Manohardas S/o Bandhu Panika, aged about 40 years
2. Magaru S/o Bandhu Panika aged about 50 years
3. Sundardas S/o Sarju aged about 32 years
4. Hagrudas S/o Bandhu Panika, aged about 75 years
5. Ramprasad S/o Barahil Kanwar, aged about 52 years,
6. State of C.G. through Collector Surguja (C.G.)

The respondents No. 1,2 and 3 are resident of village Tirang and respondent no.4 and 5 are resident of vil. Bansajhal, Tahsil Sitapur, Distt. Surguja (C.G.)

---- Respondents

For Appellants	: Shri Rakesh Pandey, Advocate
For Respondent/State	: Shri Ravindra Agrawal, Panel Lawyer

Hon'ble The Acting Chief Justice Shri Navin Sinha

Order On Board

20/03/2015

1. Heard learned counsel for the Appellants.
2. The present Second Appeal has been filed assailing the order dated 23/12/2004 of the Vth Additional District Judge, Ambikapur in Civil Appeal No.

14A/04 declining to set-aside the ex-parte judgment and decree passed by the III Civil Judge Class-II, Ambikapur in Civil Suit No. 61A/91.

3. The appellants are the legal heirs of defendant No. 2 in the Title Suit. The Title Suit was filed by respondents No. 1, 2 and 3 impleading respondent No. 4 as defendant No. 1 and the ancestor of the appellants, Sabaldeo as defendant No. 2. The deceased Sabaldeo entered appearance in the Suit and after a few dates stopped appearing leading to an ex-parte judgment and decree against him. No appeal was preferred against the ex-parte judgment and decree. The appellants pursued the matter under Order 9 Rule 13 of Code of Civil Procedure, which was also dismissed. Computing the period of time spent in pursuing the remedy under Order 9 Rule 13 of Code of Civil Procedure, the appeal preferred by them was still barred by gross delay for which no sufficient cause had been shown. The Appellate Court therefore dismissed the appeal on the ground of limitation.

4. No substantial question of law is involved. The appeal is dismissed.

ACTING CHIEF JUSTICE