

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 527 of 2015

1. Pooranchand Agrawal S/o Mohanlal Agrawal
2. Tarachand Bagadia S/o Mohanlal
3. Naresh S/o Seetaram Bagadia
4. Suresh S/o Seetaram Bagadia
5. Umesh S/o Seetaram Bagadia
6. Dinesh S/o Seetaram Bagadia
7. Gayatri Devi Wd/o Seetaram Bagadia

(Applicants 1 and 2 are R/o Akaltara, District Janjgir Champa, and applicants 3 to 7 are R/o Torwa Naka Bilaspur, Tehsil and Revenue District Bilaspur, CG.

---- Applicants

Versus

1. State of Chhattisgarh through the Collector, Janjgir-Champa, District- Janjgir-Champa, Chhattisgarh
2. Executive Engineer, PWD Champa Division, Champa, Chhattisgarh
3. Sub Divisional Officer (Revenue), Land Acquisition Officer, (Janjgir), District- Janjgir-Champa, Chhattisgarh

---- Respondents

For Applicants:	Shri Rupesh Shrivastava, Advocate
For Respondents:	Shri Arun Sao Dy AG.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board By Justice Pritinker Diwaker

13/10/2015

Heard on IA No. 1 – an application for condonation of delay in filing this MCC.

2. Counsel for the respondents submits that instead of filing any reply, he would orally oppose the application for condonation of delay in filing the MCC. According to him, this MCC is not even maintainable in the present form.

3. This MCC has been filed under Order IX Rule 13 CPC for setting aside the order dated 19.3.2015 passed by this Court in FA (M) No. 37/2010.

4. Counsel for the applicants submits that on the date when the case was called, no representation could be made as their counsel was engaged in some other Court. He submits that as the order impugned has been passed by this Court in the absence of the applicants, the same is liable to be set aside.

5. From the order sheets of FA (M) No. 37/2010 it is reflected that since 19.4.2010 no representation was made on behalf of the applicants on eight dates though the caveat was filed by them. Even against the *ex parte* order the applicants had preferred SLP (Civil) No. 1854/2011 which however was dismissed as withdrawn. The case was listed in the weekly cause list dated 16.3.2015 and when nobody appeared for the applicants, ultimately on 19.3.2015 the Court decided the first appeal on merits after hearing the State counsel and remitted the matter to the trial Court for passing a fresh award after affording due opportunity to the parties.

6. Evidently, the order dated 19.3.2015 has been passed after taking into consideration all the relevant aspects of the case in accordance with law. The applicants were provided more than sufficient opportunity but they defaulted repeatedly in ensuring their representation leaving the Court with no other option but to decide the appeal on the basis of material available on record after hearing counsel for the State and giving full consideration to the pleadings of the parties. That apart, the MCC has come to be filed with considerable delay without there being any satisfactory explanation for the same. In these circumstances, there is no reason for this Court to set aside the order dated 19.3.2015. Accordingly, the present MCC is liable to be

dismissed on merit as also on account of unexplained delay in filing the same. it is dismissed as such.

Sd/-

(PRITINKER DIWAKER)

Judge

Sd/-

(I.S. UBOWEJA)

Judge