

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 771 of 2015

- Mahanand Ratre (Since dead) S/o Shri Mohan Ratre, aged about 65 years
R/o Jarhabhatha, Bilaspur, Tahsil and District Bilaspur (CG).

.....Since dead through his LR's

1. Smt. Rajmati Ratre W/o late Shri Mahanand Ratre, aged about 75 years.
2. Smt. Priyabai Ratre W/o Shri Shani Kumar Ratre, aged 38 years.
3. Rajendra Kumar Ratre, S/o late Shri Mahanand Ratre, aged about 35 years.
4. Sanjay Ratre, S/o late Shri Mahanand Ratre, aged 33 years.

All R/o Shivnath Marg Jarhabhata, Bilaspur, Tah. & Distt. Bilaspur (CG).

---- Appellants

Versus

1. Faggu Kumhar S/o Chaitu Kumhar, aged 64 years R/o Jarhabhata,
Talapara, District Bilaspur (CG).
2. State of Chhattisgarh through Collector, Bilaspur (CG).

---- Respondents

For Appellants	:	Shri Govind Ram Miri, Advocate.
For Respondent No.2	:	Shri Bhupendra Singh, Panel Lawyer.

Hon'ble Shri Justice P.Sam Koshy

Order On Board

17/09/2015

1. Present MCC has been preferred seeking recalling/modification of the order dated 27.02.2015 passed by this court in MCC No. 115 of 2015.
2. The contention of counsel for the Applicants is that the Second Appeal No. 84 of 2001 preferred by Mahanand Ratre got dismissed for want of prosecution on 21.11.2014. Thereafter, the Applicants moved MCC No. 115 of 2015 for

restoration of Second Appeal along with three IAs i.e. IA No.1 under Section 5 of Limitation Act, IA No.2 under Order 22 Rule 9 of CPC and IA No.3 under Order 22 Rule 3 of CPC. This court by order dated 27.02.2015 entertained the MCC allowing IA No.1 for condonation of delay and also allowed the MCC and restored the Second Appeal No. 84 of 2001 to its original number.

3. Now the Appellants have moved this MCC seeking recalling/modification of the order dated 27.02.2015 passed by this court in MCC No. 115 of 2015 stating that two IAs i.e. IA No. 2 & 3 have not been considered by this court while deciding MCC No.115 of 2015 and therefore, the order dated 27.02.2015 by which the Second Appeal was restored needs modification/recalling.
4. In the opinion of this court, present MCC is totally misconceived for the reason that once Second Appeal itself has been restored allowing the MCC, two IA applications which, according to Appellant, have not been considered, can be moved in the Second Appeal itself making appropriate prayer. Even otherwise, such applications and prayer would not be within the competence and jurisdiction of this court while deciding the MCC as subsequent to the Second Appeal getting restored, this court would not have any power to decide the claims which is being sought to be decided through this MCC.
5. Accordingly, the MCC is dismissed. No order as to costs.

Sd/-
(P.Sam Koshy)
Judge