

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 660 of 2015

1. Jagdish Mahana S/o Shri Laxmi Prasad Mahana Aged About 31 Years Occupation-
Labour, R/o Pussour, Tahsil- Pussour, Police Station- Pussour, Civil & Revenue Distt.
Raigarh (Chhattisgarh)

---- **Petitioner**

Versus

1. Smt. Kalpana W/o Jagdish Mahana Aged About 26 Years R/o Kaltatukra, Distt. Bargarh
(Orrisa)

---- **Respondent**

For Petitioners.

: Shri Vivek Tripathi, Advocate.

Order On Board

17/08/2015

Heard on admission.

1. The petition under Article 227 of the Constitution of India is preferred against the order dated 15.01.2015 by which the respondent's application under Order IX rule 13 CPC has been allowed and ex-parte decree is set aside on 11.11.2013.
2. Learned counsel for the petitioner submits that the order does not show in clear terms that before taking up the application under Order IX Rule 13 CPC on merits the Court below condoned the delay in filing the application. He submits that without condoning the delay the Court could not have decided the application under Order IX Rule 13 CPC on merits.
3. The petitioner was not present on the date when the case was fixed for consideration of application under Order IX Rule 13 CPC. The court below has taken into consideration the

reasons stated by the respondent as to why she could not appear in the proceedings which led to passing of ex-parte decree, ground of illness and other aspects.

4. In the absence of petitioner's contesting the matter and therefore, remaining absent on the date when the application was allowed, taking into consideration the order particularly, taking into consideration the reason assigned to delay in filing the application, I am not inclined to interfere with the Order of the Court.

5. Accordingly, the petition is dismissed.

Sd/-

Manindra Mohan Shrivastava

Judge

Amita