

HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.09 of 2015

1. Smt. Renu Bavali, aged about 50 years, W/o. Shri Shivrath Bavali (wrongly mentioned as Subodh).
2. Shymal Bavali, aged about 30 years, S/o Shri Shivrath Bavali (wrongly mentioned as Subodh).
3. Vimal Bavali, aged about 27 years, S/o Shri Shivrath Bavali (wrongly mentioned as Subodh).

All are by Caste Namoshudra, R/o P.V. No.119, Tahsil and Thana Pakhanjore, District Kanker.

---- Petitioners

Versus

1. Kedar Bavali, aged about 65 years, S/o late Balai Bavali, By caste Namoshudra, R/o P.V. 6, Kamalpur, Thana and Tahsil Pakhanjore, District Kanker.
2. State of Chhattisgarh through Collector, Kanker.

---- Respondents

For Petitioners	: Shri Parag Kotecha, Advocate
For Respondent No.1	: Shri Pravin Kumar Tulsyan, Advocate
For Respondent No.2	: Shri Neeraj Jain, Government Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/07/2016

(1) The Plaintiff/respondent No.1 herein filed a suit for declaration of title, permanent injunction and possession against the petitioners/defendants herein.

(2) On summon being issued the petitioners/defendants admitted and filed an application under Order 7 Rule 11 of the CPC read with Order

9 Rule 9 of CPC that the plaint is liable to be rejected as previously instituted suit has been dismissed for non-prosecution and that order would debar the plaintiff to institute the instant suit by Order 9 Rule 9 of CPC. The said application has been rejected by the trial Court holding that at this stage it does not conclude that the suit is barred by limitation.

(3) Against which, the revision has been filed by the petitioners/defendants.

(4) Learned counsel appearing for the petitioners/defendants would submit that the trial Court while rejecting the application has committed jurisdictional error.

(5) The trial Court has clearly held that such a question can be decided after recording the evidence of both the parties as to whether the suit is barred by Order 9 Rule 9 of CPC, I do not find any jurisdictional error in the order impugned warranting interference by this Court in exercise of revisional jurisdiction.

(6) Accordingly, the civil revision being devoid of substance is liable to be and is hereby dismissed. However, the trial Court is directed to conclude the hearing of the parties expeditiously as early as possible preferably within a period of six months from the date of receipt of certified copy of this order.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-