

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Civil Case No.228 of 2017**

- Roop Sagar D/o Abhay Ram, Aged About 43 (At Present 65) Years, R/o Village Tikri (Arjuni), Tahsil Gunderdehi, District Balod, Chhattisgarh (Appellant No.2 In The Second Appeal)(Defendant No.2)

---- Applicant**Versus**

1. Balram S/o Ludu Ram, Aged About 43 Years R/o Village Tikri (Arjuni), Tahsil Gunderdehi, District Balod, Chhattisgarh
2. Shyam Kumar S/o Ludu Ram, Aged About 43 Years R/o Village Tikri (Arjuni), Tahsil Gunderdehi, District Balod, Chhattisgarh
3. Digvijay Kumar S/o Ludu Ram, Aged About 49 Years R/o Village Tikri (Arjuni), Tahsil Gunderdehi, District Balod, Chhattisgarh(Claiming To Be Legal Heirs Of Fuleshwari Bai/ Decree Holder/ Plaintiffs)
4. Mahettar Ram @ Chandra Kumar S/o Abhay Ram, Aged About 65 Years R/o Village Tikri (Arjuni), Tahsil Gunderdehi, District Balod, Chhattisgarh(Defendant No.1)
5. State Of Chhattisgarh, Through: Collector, Durg, District Durg, Chhattisgarh(Defendant No.3)

---- Respondents

For Applicant : Shri Punit Ruparel, Advocate.
 For respondent No.5 : Shri SK Mishra, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****17.3.2017**

Since the maintainability of the instant MCC is to be considered, the matter is heard finally at the motion stage itself.

2. By filing the instant MCC, the applicant has prayed that on account of subsequent event developed between the parties, judgment and decree dated 04.8.2009 passed by this Court in SA No.286/96 may be modified accordingly.

3. Learned counsel for the applicant duly supported the ground taken and would submit that as the subsequent event occurred between the parties, the judgment and decree passed by this Court may be suitably modified.

4. Learned counsel for the applicant placed reliance in AIR 2012 SC 169, Ganduri Koteswaramma and Another vs. Chakiri Yanadi and Another, AIR 2011 SC 2077 Prema Vs. Nanje Gowda and others, 2014(1)CGLJ 1 Ku. Khirodri Bai and Another Verses Bhola Ram and Others and would submit that on the basis of law reiterated in the above case law, the judgment and decree passed in SA No.286/96 on 04/8/99 may suitably be amended.

5. As it is a case of the applicant, at the out set that on a subsequent event developed between the parties, the applicant has prayed for modification in the judgment and decree passed by this Court on 04.8.2009.

6. As a settled law, on the basis of material available, facts, law, documents, this Court vide judgment and decree dated 04.8.2009 decided SA No.286/96 by framing substantial question of law. In any case, any subsequent change in circumstances after the judgment and decree has been occurred, the modification of the judgment and decree is not permissible. It will be a endless procedure to consider and modify the judgment according to the subsequent event after the judgment.

7. Looking to the facts and circumstances, the case law cited are not applicable in the present matter.

8. Consequently, instant MCC is sans substance and the same is dismissed at the motion stage itself.

9. MCC dismissed.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE