

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR No. 73 of 2017**

1. Heera Motwani S/o Shri Late Lalchand Motwani, Aged About 50 Years R/o North Chakrdhar Nagar, (Sindhi Colony) Raigarh Tehsil & District Raigarh, Chhattisgarh
2. Moti Motwani S/o Shri Late Lalchand Motwani, Aged About 48 Years R/o North Chakrdhar Nagar, (Sindhi Colony) Raigarh, Tehsil & District Raigarh, Chhattisgarh(Defendants)

---- Appellants**Versus**

- Motiram S/o Late Shri Sevaram Lalwani, Aged About 56 Years Caste Sindhi, R/o Chakradhar Nagar, Raigarh, Chhattisgarh(Plaintiff)

---- Respondent

For applicant : Shri Rajesh Ranjan Sinha, Advocate.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****28/04/2017**

Heard on admission.

2. This is a revision against the order dated 06.03.2017 passed by the 1st Civil Judge, Class-1, District Raigarh, by which, the plaintiff's applications filed under Order 22 Rule 4 of the C.P.C., Order 22 Rule 9 of the C.P.C. and also an application filed under Section 5 of the Indian Limitation Act have been allowed.

3. From perusal of the record would show that during pendency of the suit instituted by the original plaintiff Motiram for permanent injunction on 07.11.1994, has expired, therefore, the necessary application, as required for substitution of his legal representatives was moved, along with an application for setting aside abatement and also for condonation of its delay in filing the same.

4. The trial Court, after considering the said applications, has come to the conclusion that sufficient and proper reasons have been assigned in the

application for condonation of delay in filing application for setting aside the abatement and accordingly, while setting aside the abatement, the application for substitution of legal representatives of said deceased plaintiff Motiram has been allowed. The Trial Court, while exercising its discretionary power, has thus allowed the applications. Having exercising its discretionary powers as such, the trial Court has not committed any illegality, therefore, I do not find any substance in this revision so as to interfere with the order impugned as passed by the trial Court.

5. In view of above, the order impugned deserves to be and is hereby upheld. Since the suit has been filed in the year 1994, I, therefore, direct the trial Court to decide the suit as early as possible, preferably, within a period of 9 months from today. No order as to costs.

6. With the aforesaid observation, the civil revision stands disposed of.

Sd/-

(Sanjay Agrawal)
Judge