

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 502 of 2017**

- Kaluram S/o Tanagu, Aged About 42 Years Caste Panika, R/o Village Raisara, P. S. & Tehsil Bhaiyathan, District Surajpur (Chhattisgarh).

---- **Petitioner****Versus**

1. Mahesiya W/o Ramdhani, Aged About 55 Years Caste Panika, R/o Village Raisara, P. S. & Tehsil Bhaiyathan, District Surajpur (Chhattisgarh).
2. Niranjana S/o Tanagu, Aged About 52 Years.....(Defendant No.1)
3. Munnilal S/o Tanagu, Aged About 42 Years(Defendant No.2)
4. Ramchandra S/o Bodhan, Aged About 62 Years.....(Defendant No.4)
5. Babulal S/o Judu, Aged About 62 Years(Defendant No.5)
6. Chetu, S/o Dohai, Aged About 56 Years(Defendant No.6)

All the above respondents No.2 to 6 are By Caste Panika, Village Raisara, Police Station & Tehsil Bhaiyathan, District Surajpur (Chhattisgarh).

7. State of Chhattisgarh, Through Collector Surajpur, Tehsil & District Surajpur (Chhattisgarh).

---- **Respondents**

For Petitioner	:	Shri Surfranj Khan, Advocate
For Respondent-State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08/08/2017**

1. Heard.
2. This petition is against the order dated 02.05.2017, whereby an application under Order 9 Rule 9 CPC read with Section 5 of the Limitation Act, was allowed.

3. A civil suit was filed by respondent No.1 Mahesiya, Wd/o Ramdhani, aged about 55 – 60 years, which was bearing Civil Suit No. 37/2015 and was dismissed on 29.02.2016. Consequently, an application was filed by the lady under Order 9 Rule 9 CPC read with Section 5 of the Limitation Act on the ground that she could not appear as she was ailing and was not keeping well because of her age as she was suffering from Malaria and Anemia, therefore, she could not appear. The court after hearing the same allowed the application and set aside the order of dismissal by the impugned order.
4. Perusal of the impugned order and the documents filed with this petition shows that no illegality has been committed by setting aside the order of dismissal of a lady who was found to be ailing on the date and was suffering from Malaria and Anemia. Considering the finding of fact, I do not find any jurisdictional error has been committed by the court while passing such order.
5. In view of the above, no interference is called for in exercise of powers vested under Article 227 of the Constitution of India. Accordingly, the writ petition stands dismissed.

Sd/-

Goutam Bhaduri

Judge

Ashu