

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 826 of 2017**

1. Dharmendar Jain S/o Shrichand Jain, Aged About 38 Years R/o Near Haribhoomi Press Behind Viplav Gas Godown Chhattisgarh Nagar, Raipur, Tahsil And District Raipur, Chhattisgarh.
2. Smt. Aghaniya Bai Jain, W/o Shrichand Jain, Aged About 65 Years R/o Near Haribhoomi Press Behind Viplav Gas Godown Chhattisgarh Nagar Raipur, Tahsil And District Raipur, Chhattisgarh.

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

1. Smt. Madhu Nahata W/o Rajmal Malu, Aged About 39 Years R/o At Near Jyoti S. T. D. P. C. O. Bajrang Nagar Raipur, District Raipur, Chhattisgarh.
2. Miss Dolly Jain, D/o Late Chandra Prakash Jain, Aged About 12 Years Through Respondent No. 1 Smt. Madhu Nahata, R/o At Near Jyoti S. T. D. P. C. O. Bajrang Nagar Raipur, District Raipur, Chhattisgarh.

---- **Respondents**

For Petitioners : Mr. Praveen Kumar Tulsayan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****13/11/17**

1. Learned counsel appearing on behalf of petitioners would further submit that the civil suit filed by the petitioner had been dismissed by the trial Court on 05.02.2009 for want of prosecution against which the petitioners preferred an application under Order 9 Rule 9 of the C.P.C. for restoration of the original suit which was also dismissed by the trial Court on 19.06.2009. Instead of filing an application under Section 151 for restoration of suit, he has filed a fresh application under Order 9 Rule 9 of the C.P.C. which has been rejected by the order dated 12.02.2015 and affirmed by the appellate Court on 06.04.2017. Therefore, he may be allowed to withdraw this writ petition with liberty to file an application under Section 151 or an appropriate

application under Order 9 Rule 9 of C.P.C. for restoration of suit.

2. I have heard learned counsel for the petitioners.
3. The prayer appears to be fair and reasonable and is allowed.
4. Accordingly, the writ petition is dismissed as withdrawn with liberty to the petitioner as aforesaid.
5. Certified copy of the impugned order be returned to counsel for the petitioner on furnishing attested photocopy thereof.

Sd/-

(Sanjay K. Agrawal)

Judge