

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.A. No. 11 of 2007

- Jayesh Taunk, son of Shri Kishore Taunk, aged about 30 years, resident of D-90, Sector,-1, Behind Adarsh School, Devendra Nagar, Raipur (C.G.).

---- Applicant

Versus

- Smt. Rupal Taunk, wife of Shri Jayesh Taunk, aged about 28 years, son of Shri Girish Ramanik Lal Chouhan, resident of House No. 3/1-349, Wazirabad, Nanded (Maharashtra) & Plot No. 8 Balaji Complex, in front of Yashwant Rao Chouhan Drama House, Koimbatore, Pune, 38 (MS)

---- Respondent

For Appellant

Shri M.N. Thakur, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

28/06/2017

1. The present Miscellaneous Appeal is arising out of order passed by the First Additional Principal Judge, Family Court, Raipur allowing the Respondent's application under Order 9 Rule 13 CPC to restore Civil Suit No. 225A/2005 for decision on merits by setting-aside the ex-parte order dated 04/05/2006.
2. Present appeal is barred by limitation, for which, notice on I.A. No. 01/2007 was issued to the Respondent, therefore, the

appeal is yet to be admitted for hearing.

3. Since after 23/03/2007, this appeal was not posted before the Bench and the Appellant's Counsel was not aware of the present status of the suit, which was revived by the impugned order, therefore, this Court directed the Registry to verify the present status of the suit from the Trial Court, on which, the concerned Trial Court has sent a memo to this Court informing that the suit has already been dismissed for want of prosecution on 20/02/2007.
4. In view of the above, the present Appeal is being rendered infructuous. It is, accordingly, dismissed. However, liberty is reserved in favour of the Appellant to move application for recalling of this order, if the suit is revived.

Sd/-
Judge
Prashant Kumar Mishra

Sd/-
Judge
Arvind Singh Chandel

Rahul