

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 829 of 2017**

1. Chaman Prasad Singh Paikra S/o Parshottam Paikra, Aged about 42 years, R/o Village Bhendri, Police Station & Tahsil Rajpur District Surajpur Chhattisgarh
2. Bageshwari Prasad S/o Parshottam, Aged about 37 years, Caste Kanwar, Occupation Cultivator, R/o Village Bhendri, Police Station & Tahsil Rajpur District Surajpur Chhattisgarh

---- Petitioners**Versus**

1. Paras Nath S/o Jagarnath, aged about 45 years, Caste Jaiswal, Occupation Cultivator, R/o Village Domhat, Police Station & Tahsil Pratappur, District Surajpur Chhattisgarh
2. Suryadev Prasad S/o Gopal, aged about 48 years, Caste Jaiswal, Occupation Cultivator, R/o Village Domhat, Police Station & Tahsil Pratappur, District Surajpur Chhattisgarh
3. Chhotelal S/o Jagarnath, aged about 80 years, Caste Jaiswal, Occupation Cultivator, R/o Village Domhat, Police Station & Tahsil Pratappur, District Surajpur Chhattisgarh
4. Radheshyam, S/o Jagarnath, aged about 37 years, Caste Jaiswal, Occupation Cultivator, R/o Village Domhat, Police Station & Tahsil Pratappur, District Surajpur Chhattisgarh
5. State of Chhattisgarh, Through The Collector, District Surajpur Chhattisgarh

---- Respondents

For Petitioners	:	Mr. D. N. Prajapati, Advocate.
For Respondents/State	:	Mr. Aditya Sharma, Panel Lawyer.

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

1. This writ petition has been preferred by the petitioners for ventilating their grievances that the trial Court has proceeded *ex-parte* against the

petitioners on 17.05.2017 and by the impugned order dated 23.08.2017, the trial Court has rejected the application filed by the petitioners / defendants under Order 9 Rule 7 of C.P.C. on the ground of limitation that the application ought to have been preferred within 30 days from the date of proceeding *ex-parte*.

2. Learned counsel appearing on behalf of petitioners would submit that the impugned order is unsustainable and bad in law as for filing the application under Order 9 Rule 7 of the C.P.C. no period of limitation has been prescribed in the Indian law and, therefore, the impugned order is liable to be set aside.

3. I have heard learned counsel for the petitioners and perused the impugned order with utmost circumspection.

4. In the application filed by the petitioners / defendants, the defendants have assigned good cause that on 17.05.2017, the defendants' advocate remained hospitalized and, therefore, he could not appear before the trial Court and when the defendants came to know about the *ex-parte* order, they have filed an application under Order 9 Rule 7 of the C.P.C. and that no period of limitation has been prescribed to file an application under Order 9 Rule 7 of the C.P.C.

5. In view of the above, the impugned order is set aside subject to payment of cost of Rs. 2,000/- to the respondents / plaintiffs on the next date of hearing. However, the respondents / plaintiffs would be at liberty to move an application for modification of the order, if they are aggrieved.

6. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge