

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 96 of 2018**

- Vinod Kumar Sharma S/o Late P.R. Sharma Aged About 45 Years R/o Railway Q.No. 13/1 N.E. Colony Bilaspur Tahsil And District Bilaspur Chhattisgarh

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

- Sheikh Vajir S/o Late Sheikh Juman Aged About 38 Years R/o Railway Colony Bangla Yard Bilaspur Tahsil And District Bilaspur Chhattisgarh.(Decree Holder)

---- **Respondent**

For Petitioner : Shri A.N. Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****31/01/2018**

1. Heard.
2. The instant petition is against the order dated 08.11.2017, whereby the petitioner's prayer to stay the recovery of the decretal amount till the application under Order 9 Rule 13 CPC is decided has been rejected.
3. Learned counsel for the petitioner would submit that the petitioner is suffering an ex-parte decree dated 30.09.2015 passed in Civil Suit No.112-B/2015 whereby a decree of Rs.1,18,913/- was granted without notice to the petitioner.
4. Perusal of the order would show that the application under Order 9 Rule 13 CPC is also pending adjudication before the Court below. The trial Court

after evaluating the facts can arrive at a fact finding issue, therefore, I am not inclined to interfere with the order. The trial Court is directed to decide the application under Order 9 Rule 13 CPC within a period of 45 days from the date of receipt of this order. With such observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri

Judge

Ashu