

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 507 of 2018

Tribhuvan, S/o. Sukharu Ram Sahu, Aged About 36 Years, R/o. Village Lawan, P.S. Kasdol, Tahsil Balodabazar, District Balodabazar Bhatapara Chhattisgarh.

---- Petitioner

Versus

Bhudhar Verma, S/o. Trilochan Verma, Aged About 50 Years, R/o. Village Korda, P.S. Kasdol, Tahsil Balodabazar, District Balodabazar - Bhatapara Chhattisgarh.

---- Respondent

For Petitioner : Mr. R.K.Pali, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10.07.2018

Heard

1. The present petition is against the order dated 10.05.2018 passed by the learned District Judge Baloda-bazar in M.J.C.No.37/2017 whereby the learned Court below has set aside the exparte judgment and decree and allowed the application under Section 5 of the Limitation Act. By such order, the Court below remitted the parties before the trial Court to decide the case on merits.
2. Learned counsel for the petitioner submits that without any rhyme and sufficient reason, the Court below has exercised the jurisdiction vested in it under Order 9 Rule 13 of C.P.C., therefore, the order cannot be sustained in the eyes of law.
3. Perusal of the order would show that on 09.12.2016, the counsel for the respondent, applicant therein, who was represented through his counsel, the counsel pleaded no instructions and on that basis the exparte proceedings were drawn and eventually the decree was passed. It has been recorded in the order that on

09.12.2016 the case was further adjourned for cross-examination of the witness who was present therein at the cost of Rs.200/-. The Court below has observed that the petitioner herein has not rebutted the reason assigned by the respondent and found it the reason so assigned to be suitable, valid and acceptable to set aside the judgment and decree. Considering the reasons so recorded, in any case, I am not inclined to interfere with the order in exercise of power under Article 227 of the Constitution of India.

4. Considering the fact that the parties may contest the case on merit, it is not the case wherein exorbitant delay has been caused either to the parties. Decision on the merits of the case will advance the cause of justice of natural hearing.
5. In a result, the petition has no merit and it is dismissed accordingly.

Ashok

Sd/-
(Goutam Bhaduri)
Judge