

# HIGH COURT OF CHHATTISGARH, BILASPUR

## Order Sheet

### **WP227 No. 799 of 2017**

1. Lalit Surjan S/o Late Mayaram Surjan, Aged About 62 Years Editor, Deshbandhu Bilaspur, R/o Raipur, P. S. And P. O. Raipur, District Raipur, Chhattisgarh. --- **Petitioner**

### **Versus**

1. Bindulata Shrivastava D/o Late Radhakrishna Shrivastava Aged About 59 Years Occupation Advocate, R/o I- 6, Vinoba Nagar, Bilaspur, P. S. And P. O. Bilaspur, District Bilaspur, Chhattisgarh. Decree Holder, Chhattisgarh
2. Lakhan Singh, S/o Late Janardan Singh, Aged About 62 Years Secretary, Bharat Gyan Vigyan Samiti, Bhopal, R/o 27 Kholi, Bilaspur, P. S. And P. O. Bilaspur, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Ashok Agrawal, Printer, Publisher, Ownner And Chief Aditor, Dainik Lokswar, Lajpatrai Nagar, Bilaspur, R/o Mangala Chauk, Bilaspur, P. S. And P. O. Bilaspur, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh ---- **Respondents**

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| <b>17.01.2018</b> | <p>Ms. Priyanka Mehta, Counsel for the Petitioner.</p> <p>Mr. Ankit Singhal, Counsel for Respondent No. 1.</p> <p>Heard.</p> <p>The plaintiff/respondent No.1 who is a practicing lawyer filed a Civil Suit seeking compensation of Rs.2 lakhs for causing defamation against the petitioner who was defendant no.4 as also Respondents 2 &amp; 3 namely Lakhan Singh and Ashok Agrawal who were defendants 1 &amp; 3. So far as it relates to petitioner/defendant no.4, the Court proceeded exparte against him on 23.02.1999 due to his non appearance and his counsel on the said date. The learned trial Court passed the judgment and decree dated 31.3.2005 whereby it was held that plaintiff/respondent no.1 is entitled to get compensation of Rs.2 lakhs from petitioner Lalit Surjan (D-4) and and respondents 2 &amp; 3 namely Lakhan Singh (D-1) and Ashok Agrawal (D-3).</p> <p>Learned counsel for the petitioner submits that an application under Order 9 Rule 13 of CPC was filed by the petitioner/Defendant No.4 for setting aside exparte decree along-with application for staying the</p> |

execution proceeding and the said application for restoration was dismissed for want of prosecution by order dated 19.04.2017 and thereafter an application for restoration was moved on 15.09.2017 and in such restoration, application under section 151 of CPC to stay the proceedings of execution was filed whereby the Court has directed to send the petitioner to civil prison. She further submits that if the money decree is executed in such a case, the petition will become infructuous.

Shri Ankit Singh, Advocate appears on behalf of respondent No.1 on advance copy.

Considering the fact that the decree was of the year 2005 and since then the money decree is existing and it was an exparte decree against the petitioner and an application was filed under Order 9 Rule 13 of C.P.C. on 29.06.2005 which was eventually dismissed on 19.04.2017 for which application for restoration was filed on 15.09.2017 wherein application u/s 151 of C.P.C., was preferred to stay the execution of the decree, therefore, the ends of justice would be sub-served, if the petitioner is directed to deposit an amount of Rs. 65,000/- before the court below and respondent is allowed to withdraw 50% of the said amount after furnishing security for the same. In such eventuality, till the application for restoration under order 9 rule 13 of CPC is decided, the rest of recovery of the amount shall remain stayed.

With such observation and direction, the petition stands disposed of.

**Sd/--**

**GOUTAM BHADURI  
JUDGE**