

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 892 of 2014

- Smt. Lilawati Dadwani W/o Meghraj Dadwani Aged About 66 Years R/o Kowra, Munda Ward, Jagdalpur, Bastar M.P. (Now C.G.)

---- Petitioner

Versus

1. Gendlal S/o Shyam Sunder Aged About 37 Years Driver, State Transport, Nagpur, Maharashtra., Maharashtra
2. Uma Bai W/o Ramkrishna Kashyap Aged About 40 Years R/o Sector No. 7, Street No. 39, Bhilai Nagar, Distt. Durg C.G., District : Durg, Chhattisgarh
3. Smt. Yasoda Bai widow of Yaswantlal Aged About 65 Years R/o Dovri Ghatpara, Jagdalpur Bastar C.G., District : Bastar(Jagdalpur), Chhattisgarh
4. Ruplal S/o Yaswantlal Aged About 46 Years R/o Dovri Ghatpara, Jagdalpur Bastar C.G., District : Bastar(Jagdalpur), Chhattisgarh
5. Premlal S/o Yashwantlal Aged About 42 Years R/o Dovri Ghatpara, Jagdalpur Bastar C.G., District : Bastar(Jagdalpur), Chhattisgarh
6. Gopal S/o Yashwantlal Aged About 39 Years R/o Dovri Ghatpara, Jagdalpur Bastar C.G., District : Bastar(Jagdalpur), Chhattisgarh
7. Kanhailal S/o Yaswantlal Aged About 35 Years R/o Dovri Ghatpara, Jagdalpur Bastar C.G., District : Bastar(Jagdalpur), Chhattisgarh
8. Mohanlal S/o Yashwantlal Aged About 30 Years R/o Dovri Ghatpara, Jagdalpur Bastar C.G., District : Bastar(Jagdalpur), Chhattisgarh

---- Respondents

For Petitioner
For Respondent No.5

Shri A. C. Sahu, Advocate
Shri B. P. Gupta, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

04/12/2018

1. Heard learned counsel for the parties on prayer for restoration of FA No.42/1986, subsequently renumbered as FA No.103/2010.
2. The first appeal has been preferred challenging the judgment and decree rendered by the District Judge, Bastar at Jagdalpur in Civil Suit No.11-A/1982. The execution of the decree was stayed by the High Court of Madhya Pradesh in the month of May, 1986 and since then the interim order is operative. The first appeal was dismissed for want of prosecution on 20.03.1997 but was subsequently restored. On 19.02.1999, the matter was posted in default. On the said date also, the appellant's counsel was not present, however, the Court allowed time to remove the defect within 7 days, failing which the appeal was directed to be dismissed automatically without reference to the Court. On account of non compliance of the order, the Registry treated the appeal to be dismissed for want of prosecution by ARJ note dated 11.05.1999. A restoration application was preferred before the Madhya Pradesh High Court in the year 2007 bearing MCC No.2253/2007, which was allowed on 14.05.2010 and thereafter the matter was transferred to this Court.
3. On 01.09.2010, this Court issued SPC to the parties. On receipt of SPC, the respondent appeared before this Court, however, the appellant was again absent when the matter was called on for hearing on 05.10.2010. The present MCC arises out of this order of dismissal dated 05.10.2010.
4. It is apparent, the appeal is pending adjudication since last more than 32 years. During this period, the first appeal was dismissed

for want of prosecution on number of occasions. The present MCC was filed on 14.11.2014, which is barred by 1440 days.

5. Considering the enormous delay and the checkered history regarding conduct of the appellant in remaining absent at the time of hearing, this Court is not inclined to restore the first appeal as no good ground has been offered for the satisfaction of the Court that the appellant was diligently and sincerely prosecuting the appeal.
6. The MCC is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Nirala