

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(227) No. 781 of 2018**

Brijmohan Agrawal, S/o Late Shri Kalicharan Agrawal, aged about 59 yers,
Occupation – Business, R/o Danipara, Raigarh, Tahsil and District Raigarh
(C.G.) **---- Petitioner**

Versus

Brajbhushan Pradhan S/o Somnath Pradhan R/o Belsara, Tahsil – Sitapur,
District Sarguja (C.G.) **---- Respondent**

For Petitioner : Mr. Alok Pandey, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****12/09/18**

1. By the impugned order dated 25.06.2018, the petitioner's application under Section 33 read with Section 35 of the Indian Stamp Act, 1899 (for brevity, 'Act') has been rejected on the ground that earlier application was dismissed as not pressed by the petitioner / plaintiff on 22.02.2016, against which this writ petition has been preferred.
2. Learned counsel for the petitioner submits that the application ought to have been decided on merits by the trial Court and, therefore, the impugned order is unsustainable and bad in law and is liable to be set aside.
3. I have heard learned counsel for the petitioner and perused the impugned order.
4. The petitioner's first application was dismissed as not pressed and it was not decided on merits whereas the trial Court ought to have considered and decide the application on its own merits and in accordance with law.
5. Accordingly, the writ petition is disposed of with liberty to the petitioner to make fresh application under Section 33 read with Section 35 of the Act that will be considered and decided by the trial Court in accordance with law.

The respondent / defendant would be at liberty to move an application for modification of the order, if he is so aggrieved. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

Priyanka