

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.97 of 2019**

Pramod Kumar Singh, son of Late Gajadhar Singh, aged about 40 years,
R/o Qtr. No.424, Near New Jain Temple, Shantinagar, Kohka, P.O. Ram-
nagar, Supela, Bhilai, Tahl. And District Durg (CG)

---- Appellant

Versus

State of Chhattisgarh, Through: the Collector, Durg, District Durg (CG)

---- Respondent

For Appellant	:	Mr.Punit Ruparel, Advocate
For Respondent	:	Mr.Ravi Bhagat, Dy.Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

26.09.2019

1. Heard on I.A.No.2/2019 for condonation of delay in filing the second appeal as same has been filed with a delay of 492 days.
2. Sufficient cause has been shown for delay in filing the appeal. Accordingly, I.A.No.2/2019 is allowed. Delay in filing the appeal is condoned.
3. Heard the second appeal preferred by the appellant/plaintiff under Section 100 of the CPC on the question of admission and for formulation of substantial question of law.
4. Mr.Punit Ruparel, learned counsel for the appellant/plaintiff, would submit that the trial Court has committed illegality in rejecting the plaint by invoking the provisions contained in Order 7 Rule 11(d) of the CPC holding the suit to be barred by limitation, which has been affirmed by the first appellate Court, as such, the second appeal deserves to be admitted for hearing by formulating substantial

question of law for determination.

- 5.** The plaintiff filed a suit for declaration of documents of title relating to movable and immovable property kept in District Treasury, Durg in unclaimed Case No.13/82 stating inter-alia that he was declared heir of the documents kept in box (unclaimed Case No.13/82), however, he was given documents relating to movable property of the said case on 13.8.1999 by the Tahsildar, Durg on the basis of order passed by learned Additional District Magistrate, Durg on 18.2.1997 in Case No.401/1997, but he was not given documents relating to immovable property, as such, he is entitled for declaration of documents of title relating to immovable property, which was kept in that box. The trial Court rejected the plaint by invoking the provisions contained in Order 7 Rule 11(d) of the CPC holding that the plaintiff has already been given movable property kept in that box on 13.8.1999 and therefore, he had to claim about the said document within three years from 13.8.1999, but the suit was filed on 13.9.2010, whereas it ought to have filed within three years from 13.8.1999, which is apparently barred by limitation. The said finding has been affirmed by the first appellate Court.
- 6.** Admittedly, pursuant to the order of the District Magistrate dated 18.2.1997, the plaintiff was handed over documents relating to movable property kept in that box on 13.8.1999 and therefore, if any documents relating immovable property kept in that box has not been given to him, he ought to have filed the suit within three years from 13.8.1999 in view of Article 59 of the Limitation Act, 1963, which he

did not file and filed the present suit on 13.9.2010, which is apparently barred by limitation, as such, the trial Court was absolutely justified in rejecting his plaint by invoking the provisions contained in Order 7 Rule 11(d) of the CPC, which has been affirmed by the first appellate Court, in which I do not find any illegality or perversity. Even I do not find any substantial question of law for determination of this second appeal.

- 7.** Accordingly, the second appeal being devoid of merit is liable to be and is hereby dismissed in *limine*, without notice to other side. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-