

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 33 of 2019**

Ram Thakur S/o Ram Sundar Thakur Aged About 60 Years R/o
Purana Geedam Naka, Rajendra Nagar Ward, Jagdalpur, District
Bastar, Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Collector, Jagdalpur, District Bastar, Chhattisgarh.
2. Major Sameer Vishwakarma S/o Late Shri Pyarelal Vishwakarma, R/o Sun City, Plot No. 23, Jagdalpur, District Bastar, Chhattisgarh.
3. Badal Vishwakarma S/o Late Shri Pyarelal Vishwakarma, R/o Sun City, Plot No. 23, Jagdalpur, District Bastar, Chhattisgarh.
4. Nareshchandra Bhandari S/o Harakchandra Bhandari, R/o Chandani Chowk, Sun City, Plot No. 10, Jagdalpur, District Bastar, Chhattisgarh.

---- Respondents

For Appellant:	Shri Sanjeev Verma, Advocate.
For State/Respondent No.1:	Shri Vimlesh Bajpai, Govt. Advocate.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

13.05.2019

1. Heard on I.A. No.01/2019, an application for condonation of delay of 51 days in filing this appeal.
2. On due consideration, the said application is allowed and delay in filing this appeal is accordingly condoned.
3. Also heard on admission.
4. This miscellaneous appeal has been preferred by the Plaintiff under Section 43 Rule 1(na) of the Code of Civil Procedure (hereinafter referred to as the 'CPC') questioning the propriety of the order dated 12.09.2018 passed by the First Additional District Judge, Bastar at Jagdalpur in Civil Suit No.04/2012, by which, the application filed under Order 33 Rule 1 & 2

of CPC has been rejected on finding that the annual income of the Applicant/Plaintiff was not only Rs.80,000/- but also he possessed the land admeasuring 1.75 acres, and therefore, he is competent to pay the Court fee. While observing as such, the trial Court has rejected the said application.

5. Besides, a perusal of the application filed under Order 33 Rule 1 & 2 of CPC would show that the Plaintiff has not stated anything regarding his movable and immovable property as required under Order 33 Rule 2 of CPC. As such, the said application itself is not maintainable for non-compliance of the said mandatory provision and liable to be rejected in view of the provision prescribed under Rule 2 of the said order.

6. Having considered the facts and circumstances of the case and by considering that while moving an application filed under Order 33 Rule 1 & 2, the Plaintiff has not furnished his movable and immovable property as required mandatorily under Rule 2 of Order 33 of CPC, I am not inclined to entertain this appeal. The Appeal being devoid of merits is, accordingly, dismissed at the admission stage itself. No order as to costs.

Sd/-

(Sanjay Agrawal)
JUDGE