

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 178 of 2019**

Mangat Rai Agrawala S/o Late Shri Nanda Kishore Agrawala, Aged About 68 Years, R/o Lajpat Rai Nagar (Khaparaganj) Bilaspur, Tehsil And District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Collector Bilaspur, District Bilaspur Chhattisgarh.
2. Tahsildar Bilaspur, District Bilaspur Chhattisgarh.
3. Revenue Inspector, Tehsil Bilaspur, District Bilaspur Chhattisgarh.
4. Shri Nanda Kishor Budhiya, S/o Late Shri Antulal Budhiya Aged About 72 Years, R/o Near Company Garden Tilak Nagar, Bilaspur, Tehsil And District Bilaspur Chhattisgarh.

--- Respondents

For Petitioner	: Mr. M.D.Sharma, Advocate.
For State/Respondent	: Mr. S.K. Agrawal, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07.03.2019**

1. By the impugned order, the petitioner's/plaintiff's application under Order 26 Rule 9 of the Code of Civil Procedure has been rejected by the trial Court, against which, this writ petition has been preferred by the petitioner herein.
2. Mr. M.D. Sharma, learned counsel for the petitioner/plaintiff, would submit that the trial Court is absolutely unjustified in rejecting the application filed by the plaintiff under Order 26 Rule 9 of the CPC, which is liable to be set aside.

3. I have heard the counsel for the petitioner on the question of admission of writ petition and considered his submissions made herein above and also went through the records with utmost circumspection.
4. The trial Court has clearly recorded a finding that similar application filed by plaintiff under Order 26 Rule 9 of the CPC filed on 25.02.2008 has already been rejected by the trial Court by order dated 11.04.2008, therefore, another application under Order 26 Rule 9 of the CPC cannot be entertained. The said finding recorded by the trial Court is strictly in accordance with law, as such, the petitioner/plaintiff cannot be permitted to raise the issue, which has already been decided at the early stage of same proceedings.
5. The Supreme Court in the matter of **Satyadhyan Ghoshal and others v. Smt. Deorajin Debi and another**¹ has held that the principle of *res judicata* applies also as between two stages in the same litigation to this extent that a court, whether the trial court or a higher court having at an earlier stage decided a matter in one way will not allow the parties to re-agitate the matter again at a subsequent stage of the same proceedings.
6. Accordingly, this writ petition deserves to be and is dismissed. A copy of this order be sent to the concerned trial Court for compliance and needful. No cost(s).

Sd/-
(**Sanjay K. Agrawal**)
Judge

