

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 49 of 2019**

Randhir Sharma, S/o- Late Om Prakash Sharma Aged about- 60 years, R/o- Kondagaon, District- Kondagaon (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh, Through- Collector Kondagaon, District- Kondagaon (C.G.)
2. sub Division Officer (Revenue) Kondagaon, Tahsil & District- Kondagaon (C.G.)
3. Tahsildar Kondagaon, Tahsil Office Kondagaon, District – Kondagaon (C.G.)

----- Respondents

For Appellant : Mr. P. K. Tulsyyan, Advocate

For State Respondents : Mr. Ishwar Jaiswal & Mrs. Smith Jha, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/08/2019

1. This Miscellaneous Appeal is preferred against the order dated 17th October, 2018 passed by Additional District Judge, Kondagaon, District- Kondagaon (C.G.), in Miscellaneous Civil Case No. 02/2018, wherein the said Court rejected the application filed for the restoration of his first appeal which was dismissed for want of prosecution.
2. The appeal was preferred before the first appellate Court against the judgment/decreed dated 23rd January, 2017 passed by the Civil Judge Class-I, Kondagaon, District- Kondagaon (C.G.) in Civil Suit No. 12-A/2011, in which the appeal was preferred but was dismissed on 6th December, 2017. Restoration application was filed which was also dismissed on the ground that medical certificate was not produced in support of contention of the said application.

3. The matter is related to the property dispute between the parties and in the said civil matter, the appellant was not required to attend the Court regularly. The case is entrusted to counsel of the appellant, but for one or other reason he did not appear when the case was called for.
4. In view of this Court, any mistake committed by the counsel is not a ground for punishing the party. The party should be provided opportunity when he is willing to contest the case. Hearing should not be closed for non-appearance of the counsel and door should not be shut for the appellant finally.
5. Accordingly, the appeal is allowed and the matter is remanded to trial Court. The trial Court is directed to restore the appeal filed by the appellant. The trial Court shall hear the matter on merit and decide the issues between the parties after providing opportunity of hearing to both sides.
6. Both the parties are directed to appear before the said Court for further proceedings on 15th October, 2019.

Sd/-
(Ram Prasanna Sharma)
Judge