

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WP(227) No. 423 of 2019

Shabbir Hussain S/o Abdul Rahman Aged About 62 Years R/o Khaparganj Madarsa Irfaniya Ke Baju Bilaspur Tahsil And District Bilaspur Chhattisgarh.

---- Petitioner

Versus

Ashlam Hussain S/o Altaf Hussain Aged About 65 Years R/o Nazirabad Bus Stand Ke Pass Satna Nagar, Tahsil Raghuraj Nagar District Satna Madhya Pradesh Through Power Of Attorney, Hanif S/o Abdul Majid, Aged About 70 Years R/o Khaparganj Madarsa Irfaniya Ke Baju Bilaspur Tahsil And District Bilaspur Chhattisgarh.

---- Respondents

Petitioner in person	:	Mr. Shabbir Hussain.
For respondent	:	None.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

04/07/2019

1. This writ petition has been preferred by the petitioner against order dated 26.02.2019.

2. Petitioner appearing in person would submit that application under Section 5 of the Limitation Act should have been heard and decided first and only thereafter, application under Order 9 Rule 13 of the C.P.C can be heard, as such, the impugned order is bad and unsustainable in law, which deserves to be set aside.

3. I have heard petitioner in person and perused the impugned order.

4. The trial Court has clearly held on 10.05.2013 that for deciding application under Order 9 Rule 13 of the C.P.C & application under Section 5 of the Limitation Act, evidence is required to be taken and accordingly, posted the case for recording of the evidence of the applicant therein (Aslam Hussain). I do not find any perversity or illegality in the impugned order warranting interference by this Court under Article 227 of the Constitution of India.
5. Accordingly, the writ petition deserves to be and is hereby dismissed.

Sd /-

(Sanjay K. Agrawal)
JUDGE

J/-