

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 263 of 2019

- Salikram Gadewal S/o Sri Purushottam Gadewal Aged About 63 Years R/o Village Sambalpur, P.O.- Sakari, District-Bilaspur, Chhattisgarh.

---- Appellant

Versus

1. Arjun Kumar Lal Namdev S/o Asharafilal Namdev Aged About 45 Years Occupation- Advocate, R/o Kududand, Bilaspur, District- Bilaspur, Chhattisgarh.....(Plaintiff),
2. Vishwanath Khandelwal S/o Panna Lal Khandelwal Aged About 50 Years R/o Beside River, Near Pandit Ramakant Mishra Advocates House, Gondpara, Bilaspur, Tehsil And District- Bilaspur, Chhattisgarh.....(Defendant),

---- Respondents

For Appellant : Mr. Sanjay Patel and Mr. Suresh
Kumar Verma, Advocates.

SB: Hon'ble Shri Justice Ram Prasanna Sharma

ORAL ORDER

01-10-2019

1. Heard on I.A.No.1 of 2019, which is an application for seeking leave to appeal and also on I.A No.2 of 2019, which is an application for condonation of delay in filing the instant appeal.
2. This appeal is preferred by the appellant against the judgment and decree dated 8-1-2008 passed by 9th Additional District Judge (FTC), Bilaspur, District Bilaspur (CG) in civil suit No. 72-A/2005, wherein the said court decreed the suit filed by

respondent No.1/plaintiff for specific performance of contract against respondent No.2/defendant.

3. Admittedly, appellant was not party in the said suit. He filed this appeal on the ground that the property in question was purchased by him from respondent No.2. Respondent No.2 has not taken any legal action against the appellant. Respondent No.1 has also not taken any legal action against the appellant. Cause of action will arise in favour of the appellant when any of the respondents will interfere against the right of appellant. Appellant is free to take action, if any cause of action arises in his favour in future. Decree was passed on 8-1-2008 and the appeal is preferred on 10-6-2019 . The appeal is delayed by 11 years and five months. Though appellant was not party in the said suit, but it is not clear from his contention in the memo of appeal as to when he got knowledge about passing of decree by the said court. Though it is mentioned in the application that he came to know about the decree when the appellant received summons/notice from executing court, but no order sheet of the executing court is produced, therefore, it is not a case where appeal should be condoned after 11 years and five months.

4. Accordingly, I.A. No. 1 of 2019 and I.A. No. 2 of 2019 are rejected. Consequently, the appeal is also dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju