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HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 506 of 2019**

1. Dilip Singh Saluja S/o Late Shri Ajit Singh Saluja Aged About 61 Years
 2. Harbhajan Singh Saluja S/o Late Shri Ajit Singh Saluja Aged About 59 Years
 3. Harvinder Pal Singh Saluja S/o Late Shri Ajit Singh Saluja Aged About 45 Years
- All are R/o Station Road, Kharsiya District Raigarh Chhattisgarh.

---- Petitioner

Versus

1. Smt. Swity Saluja W/o Late Shri Surendra Singh Saluja Aged About 45 Years
2. Ku. Silki Saluja D/o Late Shri Surendra Singh Saluja Aged About 22 Years
3. Aman Saluja S/o Late Shri Surendra Singh Saluja Aged About 21 Years
4. Sainky Saluja S/o Late Shri Surendra Singh Saluja Aged About 19 Years

Respondent Nos.1 to 4 are R/o Fashion Avenue Near Bajrang Cinema, Main Road Korba, District Korba Chhattisgarh

5. Smt. Gurusharan Kaur W/o Late Shri Jogendra Singh Saluja Aged About 56 Years
6. Tinku Saluja S/o Late Shri Jogendra Singh Saluja Aged About 36 Years
7. Upkar Kaur Saluja D/o Late Shri Jogendra Singh Saluja Aged About 28 Years
8. Smt. Satnam Kaur W/o Shri Daljit Singh Aged About 38 Years

Respondent Nos. 5 to 8 are R/o Plot No. 512, Crystal Arcade, Shankar Nagar, Raipur Tahsil And District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

9. State Of Chhattisgarh Through Collector Raigarh Chhattisgarh.,
District : Raigarh, Chhattisgarh

---- Respondent

For Petitioners
For Respective
Respondents

Mr. Rajendra Tripathi, Advocate
Mr. Anand Bajpayee, Panel Lawyer and
Mr. Animesh Verma, Advocate

Order On Board By

Hon'ble Mr. Justice Prashant Kumar Mishra

26/6/2019

1. Heard.
2. By the impugned order, the trial Court has rejected the application under Order 9 Rule 7 of CPC preferred by the petitioners/defendants 1, 2 & 3 for setting aside the ex-parte order dated 13.3.2018.
3. The present suit was filed in the year 2012. During pendency of this suit, another suit was filed by the present defendants 4 to 7 against the present petitioners as also the present plaintiffs. In that suit, all the parties entered into compromise and the suit was disposed of on the basis of the said compromise on 14.5.2014 in Civil Suit No.4-A/2012.
4. It is the stand of the present petitioners that since both the suits were filed in the year 2012, they were under the impression that one of suit having already been compromised, the plaintiffs shall not proceed in the present suit. However,

the petitioners subsequently came to know that the suit is continuing and they have been proceeded ex-parte.

5. On perusal of the cause title of both the suits, belief in the mind of the present petitioners do not appear to be ill-founded or fanciful.
6. Considering that any party to the suit should not be prohibited from contesting the matter on merits and the Courts should avoid decision on the suit on default or technicality as also for the reason that both the parties are in litigation, which is proved by the fact that another suit was also filed and compromised by the parties, end of justice would be served if the defendants/petitioners are allowed to participate in the suit.
7. Accordingly, the ex-parte order dated 15.5.2019 is set-aside, subject, however, to payment of cost of Rs. 10,000/- by the present petitioners to the plaintiffs before the trial Court, for participation in the suit, within a period of one month from today.
8. The writ petition is allowed. Sd/-

(Prashant Kumar Mishra)

Judge

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