

HIGH COURT OF CHHATTISGARH, BILASPUR**M.C.C. No. 570 of 2019**

(Arising out of the order dated 24.06.2019 passed by this Court in First Appeal No. 135 of 2019)

Kumari Dolly Shadija, D/o Late Sumamal Shadija, aged about 28 years, R/o Ramsagarpara, Raipur, Tahsil and District Raipur (C.G.)

----Applicant

Versus

1. Smt. Krishna Shadija, Wd/o Late Sumamal Shadija, aged about 70 years, R/o Punjab Oil Mill Gali, Ramsgarpara, Raipur, Tahsil and District Raipur (C.G.)
2. M/s Raili Gear Finvest Limited, Registered Corporate office, 9th floor, Paras Tiwan-B sector-54 Golf Force Gudgaon, 122002, Local address – Rajkumar college Complex, Shop No. 2, 1st floor, Maruti Buisness, G.E. Road, Raipur, Tahsil and District Raipur (C.G.)

---- Respondents

For Applicant : Mr. Ravindra Sharma, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Sanjay K. Agrawal, J

Judgment on Board

Per : Shri P. R. Ramachandra Menon, C.J.

28/06/2019

(1) This MCC has been filed by the applicant in First Appeal No. 135 / 2019 with regard to an inadvertent mistake, in the verdict passed by this Court on 24.06.2019 in particular, as contained in paragraph 3 of the order dated 24.06.2019.

(2) The sum & substance of the issue involved in this case is that appellant failed to satisfy the requisite court fee and time was sought for by filing I.A. No. 1, an application under Section 149 of the CPC. The same was considered and order was passed on 29.04.2019 granting time to deposit requisite court fee by two months, making it clear that if the court fee

was not satisfied within the said period, the appeal would stand automatically dismissed.

(3) The applicant filed another application i.e. I.A. No. 2 for further extension of time for payment of requisite court fee, which came to be listed before this Court on 24.06.2019. On that date, it was observed by this Court that the order passed earlier on 29.04.2019 was 'self-contained', holding that if the court fee was not satisfied within the extended time, the appeal would stand dismissed. In such circumstances, application (I.A. No. 2) for extension of time was sought to be withdrawn, which was permitted and accordingly it was withdrawn. However, this Court also observed in 'paragraph 3' that the appeal was 'not alive' as on that date, which is apparently a mistake and the same requires to be corrected. Accordingly, paragraph 3 of order dated 24.06.2019 would stand deleted. Ordered accordingly.

(4) We make it clear that first appeal is alive as on date and if the applicant does not satisfy the court fee within the extended time in terms of the order dated 29.04.2019, the appellant would suffer the consequence.

(5) It is stated that applicant the proposes to file application for review /modification of the order dated 29.04.2019. If the same is filed before the Registry of this Court, it shall be placed before appropriate Bench for consideration in accordance with law. It is made clear that we are not making any opinion as to the merit or maintainability of the proceedings.

(7) With the aforesaid observations, the MCC stands disposed of.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge

