

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 694 of 2018**

1. Dilip Kumar Mahobia S/o Late Pannalal Mahobia Aged About 54 Years R/o Beside Of Jodhpur Marwadi Bhojnalya, Near New Indra Market Ward No.10, Mahasamund, P.S. Tahsil And District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh
2. Khilavan @ Munna Mohobia S/o Late Pannalal Mahobia Aged About 54 Years R/o Beside Of Jodhpur Marwadi Bhojnalya, Near New Indra Market Ward No.10, Mahasamund, P.S. Tahsil And District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicants**Versus**

1. Smt. Sumitra Rani Bagga W/o Krishnlal Bagga Aged About 71 Years R/o Station Road, Mahasamund P.S. Tahsil And District- Mahasamund At- Mahasamund, Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Respondent

For Applicants	:	Shri Rakesh Dubey, Advocate
For Respondent	:	Shri Anand Kumar Gupta, Advocate. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****07/02/2019**

Application for taking legal representatives of the respondents is allowed.

Present is an application for restoration of the appeal which was dismissed for want of prosecution as the arguing counsel pleaded no instructions. This Court had given liberty to revive the First Appeal.

Though there is opposition to the prayer for restoration, taking into consideration that we had granted liberty to revive, we are inclined to recall the earlier order of dismissal dated 13/08/2018 and restore First Appeal No. 197/2014 to

its original number. We will also clarify that upon restoration of the appeal, the interim order which was passed in the appeal also stands revived. The First Appeal No. 197/2014 be listed for hearing before appropriate Bench.

Learned counsel for the appellant submits that he had moved an application for interim protection on 06/02/2019 and also made a mention of the case for being listed but the case could not be listed on 06/02/2019 and it was listed today. He submits that in the meantime, demolition has taken place.

According to him, irrespective of the judgment and decree, the manner in which demolition had taken place, could not be done under the law. Therefore, an order may be passed in favour of the applicants herein, for restoration of his possession as also reconstruction of the demolished house or part thereof.

No such relief as prayed for can be given in these proceedings. If there is any grievance with regard to any demolition taking place, the applicants' / appellants' remedy lies elsewhere and not in the restoration proceedings.

With such liberty, the present MCC is disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge