

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227. No. 1075 of 2018**

1. Pardeshi Das S/o Late Paharu Das Aged About 48 Years Caste Panika R/o Village Bardula (Kodapuri) Tahsil Takhatpur, District Bilaspur, Chhattisgarh.
2. Videshi Das S/o Late Paharu Das Aged About 48 Years Caste Panika, R/o Village Kecti, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. Raju Das Alias Rajkumar S/o Late Konda Das Manikpuri Aged About 50 Years Caste Panika, R/o Village Bhiloni, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.
2. Kunwariya Bai Widow Of Konda Das Aged About 70 Years Caste Panika, R/o Village Bhiloni, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.
3. State Of Chhattisgarh Through The Collector Bilaspur, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Vivek Shrivastava, Advocate.
For State	:	Mr. Vimlesh Vajpai, Dy, GA.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07.01.2019**

1. Defendant Nos. 1 & 2 proceeded ex-parte under Order 9 Rule 7 on 18.04.2018 & 23.11.2017 respectively. On 29.06.2018 they filed an application for setting aside the ex-parte order assigning good cause. Said application has been rejected by the Learned trial Court by order dated 15.11.2018 holding that the application ought to have been preferred within 30 days from the date of ex-parte order, against which this writ petition has been preferred.
2. Learned counsel for the defendant/plaintiffs would submit that no period of limitation is prescribed for filing an application U/o. 9 Rule 7 of C.P.C. In the present case, the petitioners have filed the application within the reasonable time from the date when they proceeded ex-parte. Therefore, the trial Court is unjustified in rejecting the said application by holding it to be barred by limitation.

3. I have heard learned counsel for the parties.
4. Undisputably, no period of limitation is prescribed under the Indian Limitation Act, 1963 for filing an application for setting aside an ex-parte order and said application is filed within three years from the date of ex-parte order as provided in Article 137 of the Limitation Act. Therefore, the impugned order is set aside and the application U/o. 9 Rule 7 is restored with a direction to the trial Court to hear and decide the application on its own merits in accordance with law.
5. Respondents are at liberty to file application for modification of this order, if they feels aggrieved with the order.
6. A copy of this order be sent to the concerned trial Court directly and through E-mail and Fax.

Sd /-

(Sanjay K. Agrawal)

Judge