

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 1011 of 2019

- M/s Golden Soya Limited Registered Office At 7, Kodivale, Neral Kalamb Road, Via Neral, Taluka Karjat, District Raigad, Maharashtra, Through Its Power Of Attorney Holder Krishna Kumar Bairagi, Aged About 66 Years, S/o Late Kalika Prasad Bairagi, Working As Manager, Golden Soya Limited, Industrial Area, Bhanpuri, Raipur, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. Madhya Pradesh (Now Chhattisgarh) Finance Corporation Shailendra Nagar, Raipur, District Raipur, Chhattisgarh
2. Seth Oil Mill Limited Industrial Area, Bhanpuri, Raipur, Chhattisgarh

---- Respondents

For Petitioner : Mr. Shobhit Koshta, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

03-01-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 01.05.2018 passed by the Court of First Additional District Judge, Raipur, C.G. in unregistered M.J.C. of 2017 dismissing the application for restoration of the proceeding in M.J.C. No.02/2006.
2. Learned counsel for the petitioner submits that the petitioner is an auction purchaser of the property which was sold in execution proceeding, thereafter the certificate of sale of land was issued in favour of the petitioner which has been sent for registration to the office of District Registrar, Raipur on 05.08.1992. As the petitioner could not obtain the original certificate of sale, therefore, he filed an application making prayer for grant of original certificate of sale on 18.01.2005, on the basis of which M.J.C. No.02/2006 was registered and the

proceeding was pending until it was dismissed in default of 29.06.2017. The petitioner then on the very next date that is on 30.06.2017 filed the application for restoration, however, he could not give appearance on the given date 13.07.2017, therefore, his application for restoration was dismissed. The petitioner then again filed application for restoration on 14.07.2017 making a prayer to restore the proceeding initiated in the application on dated 30.06.2017 for restoration of the M.J.C. No.02/2006. The learned Court below has by the impugned order dismissed this application, mentioning that the application filed by the petitioner was unregistered and there is no provision mentioned for restoration of the same. It is further submitted that the petitioner had been diligently perusing the proceeding in M.J.C. No.02/2006 had been continuously appearing on the given dates since the year 2005, therefore, he has all the bona-fides in his favour to show his intention to participate in the proceeding. Therefore, this should have been considered by the learned Court below.

3. Heard learned counsel for the petitioner and perused the documents present.
4. Considered on all the submissions made and also perused the entire documents filed along with the petition and looking to the facts and circumstances of this case, I am of this opinion that the petitioner should be given a fresh opportunity for filing an application for restoration of the M.J.C. No.02/2006 and the learned Court below is directed to consider on the same in accordance with law. Hence, the petition is disposed off in the light of the observations made and liberty granted to petitioner hereinabove.
5. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge