

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCC No. 29 of 2021**

Mohd. Anis S/o Yusuf, Aged about 42 years, R/o Village Badi Masjid, Gaurela, Tahsil Pendra, Distt. Bilaspur Chhattisgarh, Present Distt. Gourela, Pendra, Marwahi, Chhattisgarh.

---Applicant

Versus

1. Smt. Gulnaj W/o Mohd. Ansar, Aged about 40 years.
2. Furkan S/o Mohd. Ansar, Aged about 14 years.
3. Farhan S/o Mohd. Ansar, Aged about 13 years.
4. Ku. Samaila D/o Mohd. Ansar, Aged about 12 years.

Respondents No. 2 to 4 are minor through the Mother Gulnaj.

All are R/o Gaurela, Tahsil Pendra, Distt. Bilaspur, Chhattisgarh. Present Distt. Gourela, Pendra, Marwahi, Chhattisgarh.

5. State of Chhattisgarh, Through the Collector, Distt. Bilaspur, Chhattisgarh.

---Non-Applicants

For Applicant	:- Mr. Ashok Soni, Advocate
For Non-Applicants	:- Mr. Somnath Verma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

29/09/2021

1. This MCC has been filed for restoration of second appeal No. 301/2011 which has been dismissed for want of prosecution on 06/01/2021.

2. Mr. Ashok Soni, learned counsel for the applicant, would submit that he could not appear before the Court when the second appeal was called up for hearing for bona fide reasons, therefore, this restoration application, supported by the affidavit of the applicant, be allowed and the second appeal be restored to its original file. He would rely upon the decision rendered by the Karnataka High Court in the matter of Baswantaraya Shantappa Biradar v. Gurappa Mallappa Gundagi¹ as well as the decision rendered by the Rajasthan High Court in the matter of Laxmi Lal v. Smt. Gulab Bai².

3. Mr. Somnath Verma, learned counsel for the non-applicants would submit that no provision of law has been quoted in the application for restoration, therefore, the second appeal cannot be restored to its original file.

4. I have heard learned counsel for the parties, considered their rival submissions and went through the records.

5. Considering the submission made by learned counsel for the applicant and the judgments cited above, I consider it a fit case where the

1 AIR 1968 Karnataka 329

2 AIR 2006 Rajasthan 231

applicant has made out sufficient reason for not appearing before the Court when the second appeal was called up for hearing.

6. Accordingly, this MCC is disposed of. Second Appeal No. 301/2011 is restored to its original file for hearing and disposal in accordance with law.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet