

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**WA No. 80 of 2021**

{Arising out of Order dated 26/08/2019 passed in Writ Petition(C) No. 1019 /2013 by the learned Single Judge}

1. Nawal Kishor Sahu aged 28 years son of Tirithram
2. Vimal Kishor Sahu aged 26 years son of Tirithram,
3. Mamta Sahu aged 24 years daughter of Tirithram

All above are residents of Quarter No. 599/5, Balco Nagar, Korba, Tahsil and District Korba, Chhattisgarh

-----Appellants

VERSUS

1. Smt. Punbai Sahu aged 69 years, wife of late Tirithram
2. Pawan Kumar Sahu aged 38 years son of Tirithram
3. Santoshi Bai Sahu aged 36 years daughter of Tirithram

All above are residents of near Railway Colony, Korba, tahsil and district Korba Chhattisgarh

4. Smt. Kanti Devi Sahu aged 61 years wife of late Tirithram, resident of Quarter No. 599/5 Balco Nagar, Korba, Tahsil and District Korba Chhattisgarh
5. State of Chhattisgarh through the Collector, district Korba C.G.

-----Respondents

For Appellants	:	Mr. Ritesh Verma, Advocate.
For Respondent-State	:	Mr. Vikram Sharma, Dy. Govt. Adv.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per P.R. Ramachandra Menon, C.J.****15/03/2021**

1. The judgment dated 26.08.2019 passed by learned Single Judge in WPC No. 1019/2013 is put to challenge in this appeal; filed with a petition to condone the delay of 487 days in filing the same.
2. Writ petition was filed challenging the correctness of the compromise decree passed by the Civil Judge, Class-I, Korba, in Civil Suit No. 51-A/2016. The matter was dealt with by the learned Single Judge and on considering the facts and figures, it was found that the decree was not correct or sustainable because of the heavy cloud stated as existing. In the said circumstance, the decree dated 25.07.2010 was set aside and the matter was remitted back to the court below

for decision afresh on merits, directing the parties to appear before the court below on 30th September, 2019.

3. Coming to the right of appeal, the same has been dealt with under Section 2 of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006. The proviso of the said Section clearly stipulates that no appeal shall lie against the verdict passed by the learned Single Judge exercising supervisory jurisdiction under Article 227 of the Constitution of India.
4. In the instant case, since the correctness of the decree passed by the Civil Court was under challenge, the power exercised by the learned Single Judge is in exercise of the supervisory jurisdiction under Article 227 and not Article 226.
5. In the said circumstances, no appeal is maintainable. The application for condonation of delay and the appeal stand dismissed.

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

Sd/-
(Parth Prateem Sahu)
Judge