

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 57 of 2021

- Nand (Wrongly Recorded as Nanda in the order sheet) Kishore Budhiya S/o Lt. Shri Antulal Budhiya Aged About 80 Years, R/o Opposite to Company Garden Tilak Nagar, Bilaspur, Tehsil and District - Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through the Collector Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Tahsildar Bilaspur District Bilaspur Chhattisgarh.
3. Rajsava Nirikshak Bilaspur, District Bilaspur Chhattisgarh
4. Mangat Rai Agrawal S/o Shri Nand (Wrongly recorded as Nanda in the order sheet) Kishore Agrawal, Aged About 68 Years, R/o Lajpat Rai Nagar Khaparganj Bilaspur, Tehsil and District Bilaspur Chhattisgarh

--- Respondents

For Petitioner – Shri Awadh Tripathi, Advocate.
For State – Shri Alok Nigam, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

10-06-2021

1. This review petition has been brought being aggrieved by the order dated 29-11-2019 passed in WP(227) No.907 of 2019.
2. Respondent No.4 had filed WP(227) No.907 of 2019 praying that the application of respondent No.4 filed under Order 26 Rule 9 of the CPC was rejected twice by the trial Court and his suit was dismissed. Respondent No.4 has filed appeal which is registered as Civil Appeal No.A/120/2017 and pending before the Court of District Judge, Bilaspur. His application under Order 26 Rule 9 of the CPC was rejected by the appellate Court. This Court by the order dated 29-11-2019 in WP(227) No.907 of 2019 had directed the appellate Court to reconsider on the application under Order 26 Rule 9 of the CPC at the stage of final hearing in the appeal and the petition was disposed off.
3. In the present review petition it is submitted that the petitioner was not granted liberty of hearing in that writ petition. The respondent No.4 has misled

this Court on this point that identity of the disputed property is in question. Therefore, the Writ Petition (227) No.907 of 2019 was not fit to be allowed. Hence, the review petition be allowed and WP(227) No.907 of 2019 be heard again on merits.

4. Considered on these submissions. No ground appears to be made out in accordance with Rule 90 of the High Court of Chhattisgarh Rules, 2007. Secondly, no harm is going to come on the part of the petitioner if the appellate Court gives reconsideration on the application under Order 26 Rule 9 of the CPC. While hearing the appeal party in appeal is at liberty to argue on such aspects of the trial on which he puts his claim that the decision on any interlocutory application may have given a different result in the final outcome of the trial. Apart from that, this review petition has been filed after passing of about 1 ½ years. Therefore, I do not find any reason to entertain this review petition, which is dismissed at motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge