

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**SA No.337 of 2011**

1. Managing Director, Bhilai Steel Plant, Ispat Bhawan, Bhilai Nagar, Tahsil and District Durg (C.G.)
2. Assistant General Manager, Jharan Dalli Make Mines, Dalli Rajhara, Tahsil Balod, District Durg (C.G.)
3. Junior Manager (Labour), Jharan Dalli Make Mines, Dalli Rajhara, Tahsil Balod, District Durg (C.G.)

**---- Appellants**

**Versus**

- Kriparam Dhankar, S/o Late Shri Bhavsingh Dhankar, aged about 54 years, R/o Near Danteshwari Temple, Puranan Bazar, Ward No.18, Dalli Rajhara, Tahsil Balod, Distt. Durg, C.G.

**---- Respondent**

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| For Appellants | Dr. N. K. Shukla, Senior<br>Advocate along with Ms. Ritu<br>Mishra, Advocate |
| For Respondent | Mr. Prateek Sharma, Advocate                                                 |

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**Hon'ble Justice Shri Sanjay K. Agrawal**

**Order On Board**

**15/02/2021**

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants/defendants,

whereby the First Appellate Court has reversed the judgment and decree of the Trial Court preferred by the plaintiff vide judgment and decree dated 22.10.2011 passed by the learned Additional District Judge, Balod, District Durg (C.G.) in Civil Appeal No.233A/2011, arising out of the judgment and decree of the Trial Court dated 30.09.2011 passed by the learned Civil Judge Class-II, Dalli Rajhara, District Durg (C.G.) in Civil Suit No.4A/2011 dismissing the suit filed by the plaintiff.

2. The learned First Appellate Court has reversed the judgment and decree passed by the Trial Court and decreed the suit of the plaintiff by holding that the plaintiff's date of birth is 10.01.1956 instead of 10.10.1951 and further held that the plaintiff's suit is maintainable and also granted injunction against the present defendants.
3. Mr. Shukla, learned counsel for the appellants/defendants, would submit that the judgment and decree of the First Appellate Court granting permanent injunction runs contrary to the decision of the Supreme Court

in the matter of **Ishar Singh vs National Fertilizers And Another**<sup>1</sup>, therefore, the appeal be admitted for hearing by formulating substantial question of law accordingly.

4. The plaintiff herein being the employee of the Bhilai Steel Plant filed a suit for correction of his date of birth i.e. 10.01.1956 instead of 10.10.1951, which was dismissed by the Trial Court, but was reversed by the First Appellate Court holding that the plaintiff's date of birth is 10.01.1956 instead of 10.10.1951 and consequently granted injunction against the defendants and in the meanwhile, the plaintiff retired on 21.10.2016 taking advantage of the decree of the First Appellate Court, against which this second appeal has been preferred.

5. The Supreme Court in the matter of **Ishar Singh** (supra) has clearly held that the suit for verification of date of birth is maintainable before the Civil Court and is not barred. As such the First Appellate was justified in holding that the plaintiff's date of birth is 10.01.1956 instead of 10.10.1951. But in the

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1 AIR 1991 SC 1546

instant case, after passing of the judgment and decree of the First Appellate Court, the plaintiff has retired taking advantage of the decree of the First Appellate Court on 21.10.2016 and particularly the relief of injunction was the consequential relief granted by the First Appellate Court. As such, there is no illegality or perversity in the judgment and decree passed by the First Appellate Court.

6. I do not find any substantial question of law involved in this second appeal so filed by the appellants/defendants. It deserves to be and is hereby dismissed in *limine* without notice to the other side. No order as to cost (s).

Sd/-  
Sanjay K. Agrawal  
Judge

Nirala