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HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 471 of 2021

- Satyawati Yadav (Wrongly mentioned as Saraswati Yadav in Judgment) W/o Narayan Yadav , R/o Ward No. 15, Kawardha, Tahsil And District Kabirdham Chhattisgarh (Respondent No.2 in F.A. No. 03/2011) ----- **Petitioner**

Versus

1. Munnalal Agrawal S/o Chaganlal Agrawal Aged About 39 Years Occupation Hotel Business, R/o Ward No. 13, Kali Ward, Kawardha, District Kabirdham Chhattisgarh.
2. Smt. Sobhna Chourasiya D/o Late Shri (Dr.) Sushil Kumar Chourasiya R/o E-2, 314, Arora Colony Bhopal , District Bhopal Madhya Pradesh.

----- **Respondents**

For Petitioner: : Shri Shivang Dubey, Advocate

Hon'ble Shri Justice Sanjay S. Agrawal

Order on board

10.09.2021

1. This petition has been filed by Defendant No.2- Satyawati Yadav (In appeal, it was mentioned as Saraswati Yadav) under Order 41 Rule 21 of the Code of Civil Procedure, 1908, (hereinafter referred to as "the C.P.C.") questioning the legality and propriety of the judgment and decree dated 17.03.2021, passed by this Court in First Appeal No.03/2011.
2. Learned counsel for the Petitioner submits that the petitioner had executed a Vakalatnama in favour of the local counsel to represent her interest in the said appeal, i.e., First Appeal No.03/2011 immediately after receiving the service of notice of the same, which was served on 14.02.2011. It is submitted further that the petitioner was informed by her local counsel that the Vakalatnama has already been filed in the said appeal, however, it came to her knowledge only after the pronouncement of the said impugned judgment and decree that the Vakalatnama as given by her was not submitted in the said appeal. It is, therefore, contended that owing to

inadvertence of her counsel, the petitioner should not be suffered and she is required to be heard as the impugned judgment and decree has been passed *ex parte* against her. It is contended further that she is in possession over the property in question in pursuance of the registered deed of sale executed in her favour on 31.03.2004 during the pendency of the suit for specific performance of contract instituted by Respondent No.1/Plaintiff.

3. From perusal of the averments, it appears that the Petitioner was admittedly noticed with the said appeal on 14.02.2011. According to the petitioner, it was not her knowledge that the counsel engaged by her has not submitted the Vakalatnama in the said appeal and came to know about this fact only after the pronouncement of the impugned judgment and decree which was delivered on 17.03.2021. The contention of the petitioner is, however, not acceptable, as the notice of the said appeal was duly served upon her way back on 14.02.2011 and, therefore, it can not be said merely based upon her bald statement that she was prevented by such a cause particularly when the said appeal was heard and decided after passing of more than 10 years from the date of service of notice upon her.
4. Consequently, the petition being devoid of merit is liable to be and is hereby dismissed. No order as to costs.

Sd/-
(Sanjay S. Agrawal)
JUDGE

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

MCC No. 471 of 2021

Satyawati Yadav **Versus** Munnalal Agrawal

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10.09.2021	Shri Shivang Dubey, counsel for the Petitioner. Heard on Admission. Order passed separately, signed and dated. Sd/- (Sanjay S.Agrawal) JUDGE