

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCC No. 538 of 2020**In the matter of

Dharmidevi

Versus

Fagni (Died and deleted), Bifaiya & Ors.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****11/01/2021**

1. This is an office reference based on the letter dated 12/10/2020 received from the Court of 2nd Additional District Judge, Ambikapur seeking further extension of time to comply with the order dated 27/02/2020 passed by this Court in S.A. No. 2/2011.
2. This Court, vide order dated 27/02/2020 passed in S.A. No. 2/2011, had remitted the matter to the first appellate Court and had directed for disposal of the first appeal within three months from the date of receipt of the record, which was received by that Court on 20/03/2020. Thereafter, citing the order passed by this Court with regard to the disposal of only urgent matters in view of the COVID-19 pandemic situation, it was informed that the first appeal has not been decided and further time has been sought.
3. By order dated 16/12/2020, this Court directed the first appellate Court to comply with the order dated 27/02/2020 on or before 08/01/2021 and listed the matter today. Today it has been informed that the order dated 27/02/2020 has already been complied with on 21/08/2020.
4. In a similar situation, a three Judges Bench of the Supreme Court in the matter of **Ankit Maheshwari alias chintoo v. The State of Madhya Pradesh**¹ decided on 14/08/2020 held as under :-

¹ MA No. 1328/2020 in SLP(Cri.) No. 11315/2019

“one common reason mentioned by the concerned court is about the guidelines issued by the High Court for functioning of court(s) within the State during the pandemic period for taking up only urgent cases. Thus the trials in the concerned case could not proceed despite the peremptory direction given by this court. The reason, in our opinion is unacceptable. For general guidelines issued by the High Court cannot over-ride the directions given by this Court on a judicial side in the given case; which the concerned court(s) and all concerned are expected to comply with, without demur in its letter and spirit, unless relaxed by this court. We say no more.”

5. The aforesaid judgment rendered by the Supreme Court in **Ankit Maheshwari** (supra) squarely applies to the factual position in the instant case. Learned Additional District Judge could have considered the matter on judicial side and disposed of the first appeal as the Supreme Court has clarified the legal position. Since, the order in question has now been complied with, the instant case is closed. However, learned Additional District Judge is directed to be careful in future while complying with the order of this Court.
6. A copy of this order be sent to the Registrar General and the concerned District Judge for information.

Sd/-
(Sanjay K. Agrawal)
Judge