

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCC No. 548 of 2020**In the matter of

Heeralal

Versus

Devdhari & 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 10/11/2020 received from the Court of Additional District Judge (Fast Track Court), Surajpur seeking further extension of time to comply with the order dated 03/03/2020 passed by this Court in S.A. No. 150/2009.
2. This Court, vide order dated 03/03/2020 passed in S.A. No. 150/2009, 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 a copy of that order, which was received by that Court on 19/03/2020. 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 and also stating that the records were received by the first appellate Court on 10/11/2020, it was informed that the first appeal has not been decided and further time has been sought.
3. By order dated 17/12/2020, this Court called an explanation from the Registrar (Judicial) as to why it took eight months in sending the record and in the interest of justice directed the first appellate Court to comply with the order dated 03/03/2020 on or before 08/01/2021 and listed the matter today. Today it has been informed that the order dated 03/03/2020 has already been complied with on 30/12/2020 and the first appeal has finally been decided by the Additional District Judge.

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 that the order passed in judicial side must be complied by all concerned and observed as under :-

“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 ought to have considered the matter on judicial side and disposed of the first appeal as Their Lordships of the Supreme Court have clearly clarified the legal position. Since, the order in question has now been complied with and the first appeal has already been decided, 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. Learned Additional District Judge in his reference memo informed to this Court that the original record was received by that Court only on 10/11/2020 whereas it was timely sent by the Registry on 16/03/2020 as the inquiry by the Additional Registrar (Judicial) reveals. The District Judge, Surajpur is directed to ensure and submit a report to the Registry of this Court as to why the records were not placed before the

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

concerned Court right on time for disposal of the first appeal. The report must reach the Registry of this Court on or before 05/02/2021.

7. A copy of this order be sent to the Registrar General and the concerned Additional District Judge for information.
8. Let the matter be placed before Hon'ble the Chief Justice for information and needful action.

**Sd/-
(Sanjay K. Agrawal)
Judge**

Hameet