

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Civil Case No.653 of 2021

1. Smt. Sita Puri, Wd/o Late Ratanchand Puri, aged about 74 years, Occupation House-wife,
2. Neeraj Puri, S/o Late Ratanchand Puri, aged about 41 years,

Both are resident of Mahamaya Road, Ambikapur, Mayapur, P.S. and Tahsil Ambikapur, District Surguja (C.G.)

(Respondents / Defendants No.2a and 2b)
---- Applicants

Versus

1. Smt. Jagrati, Wd/o Late Shri Ramlakhan, aged about 46 years,
2. Lalit Vijay Singh, S/o Late Shri Ramlakhan, aged about 24 years,
3. Akрати, D/o Late Shri Ramlakhan, aged about 23 years,
4. Bhanu Pratap, S/o Late Shri Ramlakhan, aged about 21 years,
5. Falit Singh, S/o Late Shri Ramlakhan, aged about 20 years,

All R/o Village Fundurdihari, Tahsil Ambikapur, District Surguja (C.G.)
(Appellants/Plaintiffs)

6. State of Chhattisgarh, through Collector, Surguja, Ambikapur, District Surguja (C.G.)

(Respondent No.1/Defendant No.1)
---- Non-applicants

For Applicants: Mr. Sunil Tripathi, Advocate.

For Non-applicants No.1 to 5: -

Mr. Sushobhit Singh, Advocate.

For Non-applicant No.6 / State: -

Mr. Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/11/2021

1. Heard on admission.
2. This MCC has been filed for extension of time for adjudication of appeal till the first hearing of SLP before the Supreme Court.

3. Mr. Sunil Tripathi, learned counsel for the applicants, submits that the applicants have filed SLP before the Supreme Court and till the hearing of the said SLP, time be extended to comply the judgment which is opposed by learned counsel for the other side.
4. This Court in paragraph 13 of the judgment passed in S.A. No.379/2014, while granting the appeal partly, held as under: -

“Consequently, the first appellate Court has committed grave legal error in dismissing the first appeal holding to be not maintainable in law and further holding that suit had already abated. As such, the judgment and decree of the first appellate Court are hereby set-aside. The appeal is restored to the file of the first appellate Court for hearing and disposal in accordance with law. Parties will appear before the first appellate Court on 22-11-2021. No fresh notice will be necessary and appeal will be heard finally expeditiously from the date of appearance and it will be concluded on or before 31-12-2021, as the civil suit was filed on 18-2-1970. The substantial question of law is answered accordingly and consequently, the second appeal is allowed to the extent indicated herein-above. No order to cost(s). Registry is directed to send the record to the District Judge, Ambikapur, Distt. Surguja by a special messenger with a copy of the judgment forthwith.”

5. A careful perusal of the MCC in the light of the judgment made would show that this Court had already delivered judgment and directed the civil appeal to be concluded on or before 31-12-2021 as the civil suit was filed on 18-2-1970. The applicants herein have not filed any review petition seeking review of judgment & decree dated 1-11-2021, but only in sum and substance sought interim stay of the judgment delivered in S.A.No.379/2014. Since this Court has become *functus officio*, this Court has no jurisdiction now to stay the effect of the judgment which has already been passed in terms of paragraph 13 of the judgment, particularly no review has been sought for against the judgment and only time for extension of adjudication of appeal till first hearing of SLP has been sought, which, in substance, amounts to

staying the judgment itself, which this Court has no jurisdiction.

Accordingly, the MCC is dismissed, *in limine*.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma