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**BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH**

**AT BILASPUR (CHHATTISGARH)**

**W.P. (227) No. 572 /2012**

**PETITIONER**

**DEFENDENT IN THE**  
**COURT BELOW**

: Girish Kumar S/o (late) Indalsingh  
Kotpatiya, aged about 45 years,  
R/o Village Perpar, Tahsil Gurur,  
Distt. Durg (C.G.)

**VERSUS**

**RESPONDENTS**

**PLAINTIFFS IN THE**  
**COURT BELOW**

1. Smt. Banita D/o Sitaram (W/o Late  
Mehatram), aged about 71 years,  
R/o Village Perpar, Tahsil Gurur,  
Distt. Durg (C.G.)

Present Address - Village Marri,  
Tahsil- Devri, Distt. Durg (C.G.)

2. Smt. Birij Bai D/o Sitaram, (W/o  
Kamta Prasad Bhediya), aged about  
61 years, R/o Perpar, tehsil Gurur,  
district Durg (CG) present address  
- village Jhalmala tehsil Balod  
district Durg (CG)

3. Smt. Tilotma D/o Shivdayal W/o  
Harakram Kokila, aged about 47  
years, R/o village Perpar, tehsil  
Gurur, district Durg (C.G.) present  
address village Potgaon, tehsil  
Korar, district Kanker (CG)

4. Uttam Kumar S/o Shivdayal, aged  
about 42 years, R/o village Perpar,  
tehsil Gurur, district Durg (C.G.)

5. State of Chhattisgarh  
through District Collector, Durg  
(CG)

6. Bhupat Singh S/o Balwant Thakur,  
aged about 44 years,

R No. 572/12  
Presented by Shri. Satrugshan Sahu  
Dated 12/8/12



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7. Chandrabhushan S/o Balwan Thakur, aged about 47 years,
8. Girwar S/o Balwant Thakur, aged about 42 years,  
all Respondent no. 6, 7 and 8 R/o village Kumhli, tehsil Mohla, district Rajnandgaon (CG)
9. Smt. Sitabai <sup>D. N.</sup> S/o (late) Tarsingh, aged about 38 years,
10. Smt. Hemlata <sup>D. N.</sup> S/o (late) Tarsingh aged about 36 years,
11. Smt. Roshni, <sup>D. N.</sup> S/o (late) Tarsingh aged about 33 years,
12. Smt. Somin, <sup>D. N.</sup> S/o (late) Tarsingh aged about 31 years,
13. Kuleshwar, S/o (late) Tarsingh, aged about 28 years,
14. Shatrughan, S/o Malechchha Raut, aged about 52 years,
15. Kishun S/o Malechchha Raut, aged about 50 years,
16. Lakhan S/o Malechchha Raut, aged about 49 years,
17. Smt. Kamli <sup>D. N.</sup> S/o Malechchha Raut,
17. W/o Hiranman aged about 47 years,
18. Smt. Johatri <sup>D. N.</sup> S/o Malechchha Raut, W/o Ishwari aged about 47 years,  
all Respondent no. 9 to 18 R/o village Sorar, tehsil Gurur, district Durg (CG)
19. Smt. Leelabai W/o Gangaram Keram, aged about 57 years, R/o village Dhangaon, tehsil Dondilohara district Durg (CG)



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20. Smt. Ahilyaabai W/o Chowaram, aged about 52 years, R/o village Devkar, Tehsil Saja, district Durg (CG)
21. Uttam S/o Latkhor, aged about 47 years, R/o village Jhalmala, tehsil Balod, district Durg (CG)
22. Chandra Kumar S/o (late) Khamhan, aged about 46 years, R/o Kotera tehsil Daundilohara, district Durg (CG)
23. Om Prakash S/o Late Indalsingh Kotpatiya, aged about 43 years, R/o Village Perpar, Tahsil Gurur, Distt. Durg (C.G.)
24. Naveen Kumar S/o Late Indalsingh Kotpatiya, aged about 35 years, R/o Village Perpar, Tahsil Gurur, Distt. Durg (C.G.) Present Address, Sub Engineer, Nagar Palika Birgaon, Raipur, Distt. Raipur (C.G.)
25. Smt. Manju D/o Late Indalsingh Kotpatiya, (W/o Suresh Chivram) aged about 41 years, R/o Village Perpar, Tahsil Gurur, Distt. Durg (C.G.), present address Sector-7 Bhilai, Distt. Durg (C.G.)
26. Smt. Madhu D/o Late Indalsingh Kotpatiya, (W/o Surendra Latia) aged about 37 years, R/o Village Perpar, Tahsil Gurur, Distt. Durg (C.G.), Present Address Manpur, Tahsil Manpur, Distt. Rajnandgaon

PLAINTIFFS IN THE  
COURT BELOW



(C.G.)

27. Smt. Dayabati W/o Late Indalsingh Kotpatiya, aged about 62 years, R/o Village Perpar, Tahsil Gurur, Distt. Durg (C.G.)
28. Smt. Kamlabai D/o Late Ramdayal (W/o Late Makhanlal), aged about 67 years, R/o Village Perpar, Tahsil Gurur, Distt. Durg (C.G.) Present address- Village Dokla, Tahsil Charama, Distt. Kanker (C.G.)
29. Smt. Bindabai D/o Ramdayal (W/o Dayaram Halba), aged about 64 years, R/o Village Perpar, Tahsil Gurur, Distt. Durg (C.G.) Present Address - Village Mahud, Tahsil Charama, Distt. Kanker (C.G.)
30. Smt. Samari Bai W/o Nohari Thakur, aged about 46 years,
31. Smt Tijnabai W/o Prem Pradhan, aged about 43 years,
32. Smt. Krishna Bai W/o Laxman Taram, aged about 39 years, Petitioner No. 9 to 11 are R/o Village Machandur, Tahsil Charama, Distt. Kanker (C.G.)
33. Smt. Nankibai W/o Lala Ram, aged about 66 years, R/o Village Dhaneli Kanhar, Tahsil Kanker, Distt. Kanker (C.G.)
34. Sevant Kumar S/o Late Thamhan, aged about 51 years,
35. Vishal S/o Late Thamhan, aged about 49 years,



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36. Smt. ~~Lalsan~~ Bai D/o Late Thamhan, aged about 46 years,

37. Smt. Chaitibai <sup>D/o</sup> Late Thamhan, aged about 51 years, aged about 41 years,

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27.08.12

38. Doman S/o Lilawar, aged about 28 years,

39. Shivratan S/o Lilawar, aged about 26 years,

40. Smt. Shanta Bai <sup>D. M</sup> ~~8~~/o Lilawar, aged about 48 year,

Petitioner No. 34 to <sup>40 M</sup> ~~39~~ are R/o Village Kotera, Tahsil Doundilohara, Distt. Durg (C.G.)



**WRIT PETITION UNDER ARTICLES 227 OF THE**  
**CONSTITUTION OF INDIA**



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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**S.B: Hon'ble Shri Prashant Kumar Mishra, J.**

**Writ Petition (227) No. 572/2012**

**PETITIONER** : Girish Kumar

**Versus**

**RESPONDENTS** : Smt. Banita and others

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Shri Mahendra Dubey, counsel for the petitioner.  
Shri Satish Gupta, G.A. for the State.

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**ORAL ORDER**  
**(31.08.2012)**

Petitioner has challenged the impugned order whereby the first appellate court has dismissed his appeal as a result of petitioner's failure to pay court fee for service of summon to the opposite party.

(2) Since the appeal has been finally disposed of by the impugned order, the decree passed by the trial court has merged in the appellate order. It is trite law that any final order in appeal, even if it is passed on account of default or on the ground of the appeal being barred by limitation finally adjudicates the first appeal as the order dismissing the appeal affirms the decree passed by the trial court.

(3) In the opinion of this court, this writ petition is not maintainable. The petitioner may avail the remedy available to him under the Code of Civil Procedure for challenging the dismissal of his first appeal.

(4) With the above observation, the writ petition is disposed of.

(5) Certified copy of the impugned order be returned to learned counsel for the petitioner on supplying xerox copy thereof.

Sd/-  
Prashant Kumar Mishra  
Judge

gm