
(2019) 03 CHH CK 0047
In the Chhattisgarh High Court
Case No : Writ Petition 227 No. 178 Of 2019

Mangat Rai Agrawala

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 07-03-2019

Acts Referred:

Code Of Civil Procedure 1908 — Order 26 Rule 9

Citation : (2019) 03 CHH CK 0047

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : M.D. Sharma, S.K. Agrawal

Final Decision : Dismissed

Judgement

Sanjay K. Agrawal, J

1. By the impugned order, the petitioner's/plaintiff's application under Order 26 Rule 9 of the Code of Civil Procedure has been rejected by the trial Court, against which, this writ petition has been preferred by the petitioner herein.
2. Mr. M.D. Sharma, learned counsel for the petitioner/plaintiff, would submit that the trial Court is absolutely unjustified in rejecting the application filed by the plaintiff under Order 26 Rule 9 of the CPC, which is liable to be set aside.
3. I have heard the counsel for the petitioner on the question of admission of writ petition and considered his submissions made herein above and also went through the records with utmost circumspection.
4. The trial Court has clearly recorded a finding that similar application filed by plaintiff under Order 26 Rule 9 of the CPC filed on 25.02.2008 has already been rejected by the trial Court by order dated 11.04.2008, therefore, another application under Order 26 Rule 9 of the CPC cannot be entertained. The said finding recorded by the trial Court is strictly in accordance with law, as such, the petitioner/plaintiff cannot be permitted to raise the issue, which has already been

decided at the early stage of same proceedings.

5. The Supreme Court in the matter of Satyadhyan Ghoshal and others v. Smt. Deorajin Debi and another AIR 1960 SC 941 has held that the principle of res judicata applies also as between two stages in the same litigation to this extent that a court, whether the trial court or a higher court having at an earlier stage decided a matter in one way will not allow the parties to re-agitate the matter again at a subsequent stage of the same proceedings.

6. Accordingly, this writ petition deserves to be and is dismissed. A copy of this order be sent to the concerned trial Court for compliance and needful. No cost(s).