

**HIGH COURT OF CHHATTISGARH AT BILASPUR****FA No. 3 of 2023**

MADAN LAL MODI (ABATED) THROUGH LEGAL REPRESENTATIVES
1(A) HARI PRASAD MODI (DEAD) THROUGH LRS. **versus** RAJ
KUMAR MODI

FA/206/2019**Order Sheet**

05.12.2024	Mr. Ravish Agrawal, Senior Advocate along with Mr. Sankalp Kochar, Advocate appeared through video conferencing for the appellants in FA No. 3 of 2023. Dr. N.K. Shukla, Senior Advocate with Ms. Priya Mishra and Mr. Dinesh Kumar Bhole, Advocate for the appellants in FA No. 206/2019. Mr. Ravish Verma, Mr. Parag Kotecha, Mr. Siddharth Shukla, Mr. Manoj Paranjpe, Mr. Shailendra Bajpai, Mr. Prasoon Kumar Bhaduri, Mr. Hari Agrawal, Mr. Pushp Kumar Gupta, Mr. Rishikant Mahobia, Mr. Prakant Sethi, counsel for the respective respondents. The aforesaid matters were allotted to this Bench



(Justice Narendra Kumar Vyas) by the order of Hon'ble the Chief Justice on 13.04.2023.

This matter was heard in part on 21.09.2023. Thereafter, it was fixed on 16.10.2023 and on that day the parties appeared and shown their willingness to settle the issue finally. Thereafter, the matter was taken up before this Court at 04.30 pm for conciliation between the parties and it was also sent to the Mediation Center of this Court. As the mediation proceedings did not succeed, adjournment was sought on the ground that the negotiation between the parties had started and one meeting has also taken place. Thereafter the matter was adjourned on 04.12.2023 and on that day, it was again adjourned to 02.02.2024 and then to 15.03.2024 and finally 15.07.2024 the record was called and the matter was fixed for final hearing at the motion stage on 09.08.2024. On 09.08.2024, learned Senior Advocate appearing for the appellant suffered some medical issue and was hospitalized at Apollo Hospital and therefore, the proceedings was adjourned for 06.09.2024. **On that day, an I.A. No. 10 of 2024 under Order 22 Rule 3 CPC was filed for substitution of legal heirs of appellant No. 1d i.e. Kailash Chand Modi which was allowed and argument was heard in part.**



On 19.09.2024, the matter was adjourned to 24.10.2024. As process fee could not be paid for service of notice on private respondent in connecting F.A. No. 206/2019, the Court directed for issuance of notice through Hamdast and fixed the matter on 05.12.2024. On 05.12.2024 notice was issued to the respondents in F.A. No. 206 of 2019 which was served upon them and an affidavit regarding service of notice has also been filed today. It is taken on record.

Mr. Shailendra Bajpai, Advocate who has filed Vakalatnama today i.e. on 05.12.2024 (with NOC of the earlier counsel Mr. Prakash Tiwari, Advocate in F.A. No. 206 of 2019) who is not party to the First Appeal No. 3 of 2023. though the said matter has been reserved, Mr. Bajpai still makes submission from the order sheet of the said appeal without placing correct facts. He has also submitted that this Court has already heard the argument in part on 21.09.2023 and more than 01 year has gone by since than, therefore, this Court is precluded from hearing the matter and submit that in view of the High Court Rules, 2007, the matter may be released from part heard. This submission is not only incorrect but an attempt on the part of Mr. Bajpai, resorting to bench hunting without being heedful of the fact



that this Court had again heard the matter on 06.09.2024, though the arguments remained unconcluded and therefore, this Court is supposed to conclude the proceedings within 03 months from the date when the argument were last heard in part and thereby the period for passing the order comes to an end on 05.12.2024, i.e. today itself. In these circumstances, it becomes incumbent upon this Court to conclude the matter today itself. Though the adjournments were sought by the parties for the reasons mentioned in the order-sheets, this Court does not intend to elaborate the reasons for adjournment as the delay in disposal of the matter is attributable to the reasons best known to the diligent and vigilant litigant as also the Lawyers engaged by him. Therefore, the request made by learned counsel for the respondent to adjourn the case for 10 days is rejected. However, they were granted liberty to submit written synopsis within 02 weeks and as such rights of the respondent are protected.

Mr. Bajpai would further submit that since the relative of the Judge is being engaged by the private respondent 2 (i) in First Appeal No. 206 of 2019, this case should not have been heard by this Bench. This is also incorrect submission of fact as the matter was already heard in part



on **21.09.2023** and then on **06.09.2024** prior to filing of Vakalatnama by the concerned counsel which was filed on **23.10.2024**. The engagement of the counsel also indicates that it is nothing but an attempt of Bench hunting and such attitude of the concerned advocate deserved to be deprecated. Hon'ble Supreme Court being faced of such a situation time and again has deprecated this practice of Bench hunting in strongest possible words. Some of the judgments carrying deprecative observations are ***Mohd. Akbar Vs. Ashok Sahu & Others*** reported in **2015 (14) SCC 519** and in ***Suo Motu Contempt Petition (Crl.) No. 5 of 2017*** in ***Re: Mohit Chaudhary, Advocate decided on 17th August, 2017***.

Even otherwise, this objection should have been raised by the counsel for the appellants but what is surprising in this matter is that it is the respondent/defendants who is taking such objection which clearly indicate a blatant attempt of Bench hunting. Thereafter, Mr. Bajpai sought a week's time to argue the matter on the ground that earlier he had not advanced the arguments on merit though the same went on for more than 20 minutes. This Court has reserved the matter today. At the same time, liberty has also been granted to the parties to put forth their



say by filing written synopsis within two weeks from today.

The episode orchestrated by Mr. Bajpai clearly demonstrate as to how the Bench hunting is resorted to by unscrupulous litigant represented through their respective counsels, for the reason best known to them.

While parting with, this Court is constrained to express its displeasure towards the sequence of events displayed by Mr. Bajpai, Mr. Siddharth Shukla and Mr. Prakant Sethi. Their demeanor in so doing is indeed depreciable. They being an indispensable part of justice delivery system that too in a constitutional Court like High Court should refrain from indulging in such attentions seeking activities which are ultimately counter productive to the interest of litigant.

Arguments heard.

Reserved for order.

**Sd/-
(Narendra Kumar Vyas)
Judge**

Bhumika