

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3317 of 2015

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Kartik Kumar Son of Late Shashi Ranjan, Resident of 197-B,
Sri Krishna Puri, P.S.- S.K. Puri, District- Patna

.... Petitioner

Versus

1. The Union of India through Secretary of Finance Department
of Banking, Government of India, New Delhi
2. The Debts Recovery Tribunal, Patna, East Boring Canal
Road, Patna, through its Registrar
3. Punjab National Bank, through its Chairman, Bhikhaji Cama
Place, Africa Avenue, New Delhi
4. Punjab National Bank, Abu Lane, Meerut Cantt. through its
Branch Manager

.... Respondents

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Appearance :

For the Petitioners : M/s Subhash Chandra Bose, Advocate

For the Union of India: Ms. Kanak Verma, C.G.C.

For the Respondent - : Mr. Nilamber Prasad Verma, Advocate
Bank

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

11 18-05-2015

I have heard the parties and perused the records.

The petitioner seeks quashing of the order dated
12.2.2015 passed by the Debt Recovery Tribunal, Patna in R.A.
12 of 2014.



In fact the orders passed in two review application, viz. R.A. 10 of 2014 and 12 of 2014 arise out of same recovery proceeding. The order dated 12.2.2015 passed in R.A. 10 of 2014 was challenged before this Court by filing C.W.J.C. No. 3042 of 2015 by the Guarantors whereas the present writ application has been filed challenging the order dated 12.2.2014 passed in R.A. 12 of 2014 by the partner of M/s Bharat Auto Traders, i.e., the loanee. However, in view of the fact that the copy of the limitation petition filed before the Debt Recovery Tribunal, Patna was not been appended in the present writ application, vide order dated 17.4.2015, a the direction was given to the petitioner to bring on record the same whereas due to the said reason C.W.J.C. No. 3042 of 2015 was separately heard and disposed of.

This is worth mentioning here that both the impugned orders, i.e., Annexure 15 which is an order dated 12.2.2015 passed in R.A. 12 of 2014 as well as order dated 12.2.2014 passed in R.A. 10 of 2014 which has already been quashed in the C.W.J.C. No. 3042 of 2015 are verbatim same arising out of same transaction and proceeding and both the review applications have been dismissed on the ground on limitation. The detailed order considering each and every aspect has been passed in the aforesaid C.W.J.C. No. 3042 of 2015.

In the present case learned counsel for the Bank has raised an issue that sufficient grounds have not been taken in the petition filed before the Debt Recovery Tribunal, Patna for condonation of delay, thus, the same was rightly not condoned.

However, this Court has already held in C.W.J.C. No. 3042 of 2015 on the basis of the decision of the Apex Court in **S.Ganesharaju Versus Narasamma [(2013) 11 Supreme Court Cases 341]** as well as in **State of Bihar v. Kameshwar Prasad Singh [2000(3)PLJR (SC) 81]** that the delay of 46 days would not fall in the category of exorbitant or inordinate delay and, thus, the same should have been condoned. The impugned order has been set aside and matter has been remitted back for fresh consideration.

In the aforementioned facts and circumstances a different view of the matter cannot be taken in the present case as both the review applications concerned arose out of same transaction or recovery proceeding.

As a result, this writ application also stands allowed in terms of judgment dated 17.4.2015 passed in C.W.J.C. No. 3042 of 2015 **Rajesh Kumar & anr. Versus The Punjab National Bank & Ors.)** .

Accordingly, the order dated 12.2.2015 as contained

in Annexure 15 is quashed and set aside. The delay in filing of R.A. 12 of 2014 is condoned and the matter is remitted back to the Presiding Officer, Debts Recovery Tribunal, Patna to consider it on its own merit and in accordance with law.

(Dr. Ravi Ranjan, J)

Spd/-

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