

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.189 of 2014

In
SA 151 of 2003

- =====
1. Gopal Raut, son of Late Rudal Raut
 2. Lalbabu Raut
 3. Rameshwar Raut, both sons of Gopal Raut and all residents of Village Balua, P.S. Gaunaha, District West Champaran.
- Defendants...Appellants.... Appellants

.... Petitioners

Versus

1. Smt. Meena Devi, D/o Late Rudal Raut, W/o Gayani Raut, resident of Village Pokharia, District Parsa (Nepal)
 2. Smt. Lalpari Devi, D/o Late Rudal Raut, w/o Gayani Raut, resident of Village Majhwalia, P.S. Bettiah, District West Champaran
 3. Indal Raut, son of Late Rudal Raut, resident of Village Balua, P.S. Gaunaha, District West Champaran
- ...Plaintiffs...Respondents Respondents

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

5 08-10-2015 Heard Mr. Ranjan Kumar Dubey, learned Counsel appearing for the petitioners in support of the limitation petition (I.A. No. 7960 of 2015) praying for condonation of delay of four years one month and twenty days in filing this Civil Review application.

This review application has been filed praying for review of the order dated 27.10.2009 passed in S.A. No. 151 of 2003 as well as for reinstatement/restoration of the said S.A. No. 151 of 2003.

From the records of S.A. No. 151 of 2003 it transpires that the said appeal was filed by the present petitioners as appellants on 19.8.2003 and was placed for hearing under order 41 Rule 11 CPC and dismissed by the judgment and order dated 27.10.2009 after hearing the learned Counsel for the appellants and respondent No.



4. The present review application has been filed on 16.1.2014 praying for the aforesaid relief. The petition for condonation of delay (I.A. No. 7960 of 2015) has been filed, in which the averment has been made that the petitioners engaged Mr. Umesh Chandra Verma as their Advocate to represent them in the Second Appeal and got S.A. NMo. 151 of 2003 filed through the said Advocate. It has also been averred that the said Counsel did not inform the appellants regarding dismissal of the appeal and it was only when the respondent-Opposite parties started disclosing the fact regarding dismissal of the Second Appeal that the petitioners came to know the said fact. It is also averred that on examination of the records the petitioners for the first time came to know that S.A. No. 151 of 2003 was in fact argued by Mr. Surendra Kishore Thakur and Mr. S.P.Parasar, Advocates as the learned Counsel for the appellants. The petitioners have denied to have engaged those Advocates who had argued the Second Appeal and on this basis prayer for condonation of delay in filing the review application has been made.

Mr.Dubey, learned Counsel appearing for the petitioners, has made his submissions in support of the grounds as mentioned in the limitation petition.

After considering the submissions and perusal of the records it transpires that S.A. No. 151 of 2003 has been filed by the appellants through Mr. Surendra Kishore Thakur and Mr. Devendra Kumar, Advocates. The Vakalatnama on behalf of the appellants also demonstrates that the present petitioners as appellants have engaged those two Advocates in the said Second Appeal. It further

transpires that during pendency of the S.A. No. 151 of 2003 Interlocutory Applications have been filed on behalf of the appellants through Mr. Surendra Kishore Thakur, Advocate.. From the title page of the judgment and order dated 27.10.2009 it also appears that Mr. Surendra Kishore Thakur appeared on behalf of the appellants along with Mr. S.P. Parasar. These facts clearly show that it was Mr. Surendra Kishore Thakur, who was engaged as their Counsel by the appellants in S.A. No. 151 of 2003 and the name of Mr. Umesh Chandra Verma nowhere appears as Advocate on behalf of the appellants in the Second Appeal.

In that view of the matter, this Court is convinced that no sufficient cause has been shown by the petitioners for condonation of delay in filing the review application and the statements made therein as ground for condonation of delay are inconsistent with the facts appearing from the records of the Second Appeal No. 151 of 2003. For the aforesaid reasons, the limitation petition (I.A. No. 7960 of 2015) is dismissed. Consequently, the Civil Review Application No. 189 of 2014 is also dismissed as barred by limitation.

(V. Nath, J)

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