

IN THE HIGH COURT OF JUDICATURE AT PATNA

Company Appeal (SJ) No.3 of 2014

Amrendra Prasad Thakur @ A.P. Thakur, son of Late Krishna Mohan Prasad Thakur, resident of Village Sunderpur- Ratwra, P.O. Ratwara, P.S. Piear (Dholi Sakra), District Muzaffarpur.

.... Appellant/s

Versus

1. The Official Liquidator, Patna High Court, Patna.
2. The Assistant Official Liquidator, Patna High Court, Patna.
3. Rohtas Industries Limited (Company under Liquidation) through the Official Liquidator, Patna High Court, Patna.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. SURENDRA SINGH , Adv.

For the Respondent/s : Mr. A. KR. (OFFICAL LIQUIDOTOR)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 29-01-2015

I.A. No. 7945 of 2014

In view of the supplementary affidavit filed by the appellant (petitioner), the number of Company Appeal mentioned in the I.A. Petition is directed to be corrected by making it Company Appeal No. 3/2014 in place of Company Appeal (DB) No. 2/2014.

Heard learned counsel for the parties in the matter of prayer for condonation of delay in filing the appeal.

Let it be noted that the appeal was to be filed by the appellant within 21 days of the order dated 22.2.2012 passed by the Official Liquidator. Such an appeal however, was filed on 20.10.2014 and, therefore, the appellant was required to explain the delay of nearly two years and seven months approximately.



Learned counsel for the appellant in this regard has firstly invited attention of this Court to Annexure-8, a communication of Mr. A.R. Verma, Incharge, addressed to the Central Public Information and Assistant Official Liquidator, High Court, Patna dated 7.7.2014.

In the considered opinion of this Court, whatever was communicated by this letter will not in any way explain the delay in filing of the appeal. Any information that a person obtains under the Right to Information Act can be basis of an evidence of information sought therein but that will not go to explain the delay in filing of the appeal by the appellant who nowhere can be said to be remotely concerned out of the facts mentioned in that information. True it is that under such information, certain details of the appellant was given but that will not go to show that the appellant also had a cause of action by way of filing appeal against the order passed by the Official Liquidator on 22.2.2012 could do so only after receipt of such information under the Right to Information Act.

Learned counsel then has tried to seek help of the medical certificate as enclosed in Annexure-1 Series. Such medical certificate will only go to show that Smt. Mridula Devi, wife of the appellant Amrendra Prasad Thakur was undergoing some treatment. The appellant on the basis of the same cannot be said to be of that busy between the period 22.2.2012 to 20.10.2014 on every day in looking



after his wife that he could not find time even for one day for filing this appeal. As a matter of fact, whatever prescriptions and certificates of the treatment of the wife of the petitioner have been produced, in fact, begin only from 8.10.2013 and, therefore, even if they are accepted on face value, they do not explain the delay prior to 8.10.2013 i.e. in between 22.2.2012 to 09.10.2013. As noted above, the period of filing of appeal was only 21 days commencing from 22.2.2012 and, thus, even if this Court, for the time being, for the sake of argument, would accept the medical certificate, there would still be no explanation for the period of March, 2012 to October, 2013. Thus, the help sought to be taken by the medical certificate also will be of no use and avail for the purpose of condoning huge delay of nearly 31 months whereas the period of limitation for filing of appeal in this case was only 21 days.

The last document which has been relied by the learned counsel for the appellant by way of Annexure-6 also in no view of the matter can explain the delay because this Annexure-6 is only a notice dated 10.1.2014 asking the appellant to collect Rs. 77,520/- which was found payable to him. That will not mean that the limitation will start running from 10.1.2014 in respect of order which was passed on 22.2.2012. The scope of order dated 22.2.2012 passed by the Official Liquidator being entirely different than what was said in the notice

given to the appellant on 10.1.2014, that at least cannot become a relevant factor for being into account for condoning such a huge delay in filing of the appeal. Thus the prayer for condonation of delay in filing of appeal must be and is hereby rejected.

This Court, therefore, would find that the appeal is time barred and, as such, when the prayer for condonation of delay in filing of the appeal for the reasons indicated above has been rejected, this appeal also must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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