

Party Name : PRAFULLA KUMAR NATH Vs NAMITA SUKLABAIDYA

THE HONBLE MR JUSTICE U. B. SAHA

In the instant revision petition the petitioner has challenged the order dated 10.11.2014 passed by the learned Civil Judge (Jr. Divn.), Dharmanagar, North Tripura in Civil Misc. No. 34 of 2013 arising out of Title Suit No. 41 of 2009 where under the learned Civil Judge allowed the prayer for condonation of delay of 1 year 7 months 20 days.

When the matter is taken up as motion hearing Mr. Nama submits that the learned Court below allowed the prayer for condonation of delay filed by the defendant respondents even though the defendant respondents did not show the sufficient reasons for causing delay. He further submits that the learned Court below did not consider the objection of the petitioner plaintiff in whose favour the exparte judgment and decree was passed on 22.02.2013.

After perusal of the impugned order, this Court is of considered opinion that the instant revision petition should be disposed of even at this motion stage as question arises as to whether allowing the prayer for condonation of delay is proper or not?

It appears from the impugned order that the learned trial Court has considered the provision of Section 5 of the Limitation Act and also taken note of the judgment of the Apex Court in **Ram Nath Sao v. Gobardhan Sao** reported in **AIR 2002 SC 1201** wherein the Apex Court considered the expression 'sufficient cause' and also held that sufficient cause should receive the

liberal construction so as to advance substantial justice when no negligence or inaction or want of bonafide is imputable to a party. In that case, the Apex Court also held that 'sufficient cause' will be dependent upon the facts of each case. There cannot be any straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps.

The Court below also considered the decision of Punjab and Haryana High Court in **Haryana State Electricity Board v. Phoolchand Satyapal** reported in **(1994)2 CCC 69(P & H)** wherein it is stated that a liberal approach is to be adopted and sufficient cause must be made out in a pragmatic manner and a pedantic approach calling upon a party to explain each day's delay is to be avoided and finally the Court below has stated in the impugned order that an ordinary person who seldom has knowledge about Court proceedings has no other option but to seek help of a lawyer and in absence of such help by a lawyer that party is left with no other option but to surrender before his fate.

In the instant case also, it has been brought to the notice of the Court below that the defendant respondents tried their level best to collect all the relevant documents in time and, thereafter, approached the lawyer for drafting the petitions who took five days for drafting of the same and ultimately by the impugned order condoned the delay which was filed along with an application under Order 9 Rule 13 of the Code of Civil Procedure for setting aside the judgment and decree passed in Title Suit No. 41 of 2009 as the delay was unintentional.

In view of the above, this Court is of considered opinion that an application under Section 5 of the Limitation Act has to be considered liberally so that a person should not be denied of substantial justice. In

the instant case the condonation petition was filed for condoning the delay of 1 year 7 months 20 days and the said delay has been properly explained and the learned Court below has rightly condoned the delay.

According to this Court the instant revision petition is without any merit and even no case is made out for issuance of notice. Therefore, the same is dismissed.