

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No. 86 of 2012**

Sanjay Kumar @ Ajay Lahare, aged about 26 years, S/o Thanauram Lahre wrongly mention Dhanauram Lahre, r/o village Nandourkala, P.S. and Tahsil Sakti, District Janjgir Champa.

---- Petitioner

Versus

1. Sammelal S/o Jethuram Rathore, aged about 32 years, R/o Purani Basti, Kharsiya, P.S. and Tahsil Kharsiya, District Raigarh.
2. United India Insurance Co. Ltd. Branch Office, Raigarh, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Parag Kotecha, Advocate.
For Respondent No. 1	: Shri Deepak Kumar Singh, Advocate.
For Respondent No. 2	: Shri Dashrath Gupta, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Prashant Kumar Mishra, J

Order on Board**Per Navin Sinha, Chief Justice****24/04/2015**

1. The present application for review of order dated 14.3.2011 arising from M.A.(C) No. 131 of 2007 is barred by 378 days.
2. Learned Counsel for the Petitioner submits that liability has been fastened on the Petitioner in the Miscellaneous Appeal without hearing him. The notice sent to him had not been validly served. The order dated 14.3.2011 may therefore be set aside and the matter may be heard afresh.
3. Learned Counsel for the Respondents have opposed the application for condonation of delay as also the appeal itself submitting that notice was validly served. The Petitioner knowingly and voluntarily did not appear before this Court in the Miscellaneous Appeal. Now, that the order has gone against

him, he cannot be permitted to take advantage of his own lapses in deliberately not appearing before the Court, and seeking to prolong the proceedings, evading the burden of the order in the Miscellaneous Appeal.

4. The records of the Miscellaneous Appeal reveal that notice was issued to the Petitioner on 8.2.2007. Requisites for service of notice by registered acknowledgment due and ordinary process were filed in due time and issued. There shall be a presumption that the registered notice reached its destination after 30 days. The presumption is rebuttable at the instance of the Petitioner. No material has been brought on record in the review application that either the registered notice was sent on the wrong address or any other material in support to rebut the presumption of service. The notice sent by ordinary process was received by his mother on 31.3.2007. The Petitioner does not deny the identity of the recipient and there is no pleading that he was not joint with his mother.

5. Presumably, since the Tribunal had fastened liability on Respondent No. 2 alone, the Petitioner preferred not to contest the Miscellaneous Appeal opining that in the event the order went against him, he could raise it at a subsequent time to delay and prolong the proceedings denying the benefits to the aggrieved and the liability that may be imposed against him. To entertain this review application on the ground that notice was not validly served on him as was contended, shall be giving an advantage to the Petitioner himself for the game of hide and seek that he seeks to play in the judicial proceedings, supported by apparently false pleadings.

6. We have also considered the pleadings in the application for condonation of delay. It only states that no notice was received by him in the Miscellaneous Appeal and he came to know of the order only when notice of execution was served upon him. The statement made in support of condonation of delay regarding non-service of notice as revealed from the

records of Miscellaneous Appeal is palpably false and incorrect.

7. We therefore find no reason to condone the long inordinate delay of 378 days. I.A. No. 1 of 2012 for condoning the delay is therefore rejected.

8. Consequently, the review application itself fails and is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(Prashant Kumar Mishra)
JUDGE