

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 468 of 2013

1. Rajmani W/o Late Ramlal Aged About 30 Years R/o Kisanpur, P.S. And Tah. Mungeli, Distt. Mungeli C.G.
2. Kumari Pooja D/o Late Ramlal Aged About 11 Years Minor, Through - Mother Smt. Rajmani, R/o Kisanpur, P.S. and Tah. Mungeli, Distt. Mungeli C.G.

---- Appellants

Versus

1. Chandulal S/o Late Devadas Aged About 45 Years R/o Kisanpur, P.S. And Tah. Mungeli, Distt. Bilaspur, Revenue District – Mungeli, C.G.
2. Saukhilal S/o Late Devadas Aged About 31 Years R/o Kisanpur, P.S. And Tah. Mungeli, Distt. Bilaspur, Revenue District – Mungeli, C.G.
3. Ramdas S/o Late Devadas Aged About 30 Years R/o Kisanpur, P.S. And Tah. Mungeli, Distt. Bilaspur, Revenue District – Mungeli, C.G.
4. Rukhmani Bai D/o Late Devadas Aged About 28 Years R/o Kisanpur, P.S. And Tah. Mungeli, Distt. Bilaspur, Revenue District – Mungeli, C.G.
5. Neera Bai W/o Munna Ram Aged About 43 Years R/o Ghonghadih, Tah. Bilaspur, Civil and Revenue Distt. Bilaspur C.G.
6. State Of Chhattisgarh Through- Collector, Mungeli, Distt. Mungeli C.G.

---- Respondents

Shri Mirza Hafeez Baig, counsel for the appellant/s.
Shri Sumit Shrivastava, counsel for respondents 1, 2, 4 and 5.
Shri Neeraj Kumar Sharma, Dy.G.A. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

17/11/2015

Heard on I.A.No.1, application for condonation of delay in filing this appeal.

Learned counsel for the appellant argued that delay of 173 days in filing the second appeal is bonafide as the appellants are poor persons, residing in distant place and due to inadvertence, the appeal could not be filed in stipulated time.

On the other hand, prayer for condonation of delay is vehemently opposed by

learned counsel for the respondents by submitting that the appeal is grossly delayed by 173 days but the appellants have not come out with any specific ground much less, proper explanation of such a long delay. It is stated in the application for condonation of delay that appellants are poor persons except that, no other explanation has been offered which according to learned counsel for the respondents is not sufficient.

The appeal is grossly delayed by 173 days. However, in the application for condonation of delay, there is hardly any explanation except stating that the appellants are poor rural people residing in distant place. No sufficient cause has been stated in the application.

Even by applying most liberal standard while considering prayer for condonation of delay, delay cannot be condoned on mere asking. When there is such a gross delay of 173 days, atleast, the appellants ought to have come out with some cause to explain such a long delay. However, except saying that the appellants are poor persons, no other ground has been raised. That by itself, without anything more, does not constitute a cause much less a sufficient cause. True it is that while examining sufficiency of cause, this Court has to keep in mind that the party, as far as possible, be allowed to contest the matter on merits. However, the aforesaid approach cannot be stretched to such an extent that even without any cause shown for long delay, on mere asking, delay would be condoned. The appellants are not indigent persons. The appellants filed suit before the Court below and contested the same. The judgment was delivered on 27/10/2010 whereas the appeal has been filed after long delay on 28/10/2013. In the absence of there being any cause shown, except the statement of appellants being poor, delay cannot be condoned. Accordingly, the application for condonation of delay in filing this appeal is rejected and the appeal is dismissed as barred by limitation.

Sd/-

**(Manindra Mohan Shrivastava)
Judge**