

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 948 of 2015**

Dukalhin Bai W/o Netram & D/o Dukhram, Aged About 70 Years  
Caste Kurmi, Caste Paraswara, Police Station Pipariya, Tahsil  
Kawardha, District Kabirdham, (Chhattisgarh), Civil & Revenue District  
Kabirdham

**---- Petitioner****Versus**

1. Beduram S/o Pakla, Aged About 56 Years
2. Ghuruwa, S/o Pakla, Aged About 53 Years
3. Holi, S/o Pakla, Aged About 50 Years
4. Bhagabai, D/o Pakla, W/o Kanthu, Aged About 47 Years
5. Manohar, S/o Kunku, Aged About 55 Years
6. Satibai, D/o Kanku, Aged About 52 Years
7. Durpati, W/o Ramji, Aged About 49 Years, resident of Mohtara, Tahsil Pandariya, District Kabirdham.
8. State Of Chhattisgarh, through the Collector, Kabirdham, (Chhattisgarh)

**---- Respondents**


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For Petitioner : Shri Devesh Chandra Verma, Advocate.  
For Respondent No.8/State : Shri Lav Sharma, Panel Lawyer.  
For Respondents No.1 to 7 : Not noticed.

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**Order On Board****18/11/2015**

1. Learned counsel for Respondent No.8 submits that he has received a copy of the petition, I.A. No. 1 of 2015 and other annexed documents. Hence, no further notice is required.
2. It is submitted on behalf of the Petitioner that the impugned order passed by the Court below dated 8.10.2015 is based on the grounds that no application under Section 5 of the Limitation Act has been filed and as such there was no appreciation with regard to the same.

3. With regard to above, it is further submitted that the Petitioner may be permitted to file an application under Section 5 of the Limitation Act and thereafter the matter may be decided by the Court below afresh and for the same no notice is required for hearing of the instant writ petition as the matter has to be appreciated alongwith application under Section 5 of the Limitation Act. Hence, the instant WP (227) may be disposed of by affording the liberty to file an application for condonation of delay.

4. On due consideration, looking to the entire facts no notice is required for the appearance/ representation of the Respondents.

5. Perused the impugned order dated 8.10.2015. It shows that no application under Section 5 of the Limitation Act has been filed by the Petitioner alongwith other interim applications under Order XXII Rule 4, and Order XXXII Rule 3 of the Code of Civil Procedure, 1908 (for short 'the Code').

6. Looking to the entire facts, in the larger interest of justice, it would be appropriate to grant an opportunity to the Petitioner to file an application under Section 5 of the Limitation Act and thereafter the Court below after hearing the application for condonation of delay, the applications filed under Order XXII Rule 4 and Order XXXII Rule 3 of the Code, the same may be disposed of afresh.

7. Consequently, the instant WP (227) is disposed of with a direction that the Petitioner shall file an application under Section 5 of the Limitation Act followed by a fresh application under Order XXII Rule 4 and Order XXXII Rule 3 of the Code within one month from today before the Court below and the same be disposed of afresh after hearing both the parties in accordance with law. It is also made it clear that any appreciation or observation in order

dated 8.10.2015 would not come in the way for the disposal of those interim applications.

8. With the aforesaid observation, the Writ Petition (227) is disposed of.

9. No order as to costs.

Sd/-  
Chandra Bhushan Bajpai  
**Judge**