

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.206 of 2016

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Ganesh Choudhary, son of late Yadunandan Choudhary, resident of Mohalla-Pethiya Gocchi, Ward No. 23, P.O. +P.S.+District- Samastipur.

.... Petitioner/s

Versus

The Middle School Pethiya Gocchi Through Head Master Smt. Suchitra Kumari wife of Sri Prem Prakash Sharma, resident of Mohalla-Kashipur, P.O.+P.S.+District- Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 17-08-2016

Heard Mr. J.S. Arora, learned counsel for the petitioner in I. A. No. 3448 of 2016 which has been filed for condonation of delay of one year and 20 days in filing this review application.

Earlier by order dated 18.05.2016, the limitation petition has been directed to be considered at the time of admission.

The review application has been filed for review of the order dated 18.12.2014 passed in C.R. No. 101 of 2013. By the said order, the two suits i.e. T.S. (eviction) No. 08 of 2004 filed by the present review petitioner (opposite party in the revision application) and T.S. No. 210 of 2010 filed by the respondent (petitioner in revision application) have been directed to be heard analogously and



decided without delay. It is evident from the said order that it has been passed after hearing both parties on merits and it has also been recorded that the learned counsel for the parties have expressed their consent for early disposal of the two suits and the observation has been made expecting cooperation from both the parties in disposal of the suits expeditiously and preferably within six months from the date of the order.

The present review application has been filed on 25.04.2016 after one year and 20 days. There is no averment in the limitation petition that the review petitioner had no knowledge of the order under review and of the direction issued by this Court pertaining to the expeditious disposal of the two suits. However, a specious plea has been raised that the review petitioner could only understand that the revision petition had been disposed of and could not know the implication thereof. From the averments made in the limitation petition it further transpires that the necessity for filing the present review application has been stated to have arisen during the discussion for filing a revision application against the order passed in T.S. No. 210 of 2010 turning down the prayer of the review petitioner for rejection of the plaint. These facts, however, also lead to the inference that the review petitioner has been ardently contesting the suit and the plea of not understanding the implication of the order

under review is only a pretext for seeking condonation of delay in filing the review petition for review of the order by which the two suits in the court below were directed to be decided without delay and preferably within six months.

The Apex Court in **Esha Bhattacharjee Vs. Raghunathpur Nafar Academy 2013 (12) SCC 649** has laid down the guiding principles for condonation of delay and has emphasized the distinction between inordinate delay and a delay of short duration or few days requiring strict approach in the case of inordinate delay as the same attracts the doctrine of prejudice. Their lordships have further also observed that the prayer for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy and such matter should not be approached harbouring the notion that 'the courts are required to condone the delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.' The emphatic submission by the learned counsel for the petitioner that a liberal approach should be adopted in condonation of delay as the review petition has got merits is completely answered by the observations in **Esha Bhattacharjee** (supra).

For the aforesaid reasons and discussion, this Court does not find that there is sufficient cause for condonation of delay in filing

the review application.

The application for condonation of delay is thus rejected.

The review application is, accordingly, dismissed as barred by limitation.

(V. Nath, J)

Devendra/-

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