

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.216 of 2013

- =====
1. Rameshwar Prasad Singh
 2. Bisheshwar Prasad Singh,
Both are sons of late Sidheshwar Prasad Singh
 3. Gyaneshwar Prasad Singh
 4. Santosh Kumar
 5. Shyam Nandan Singh
 6. Amarnath Singh
- Sl. No. 3 to 6 are sons of Shri Rameshwar Prasad Singh
7. Rajeshwar Prasad Singh
 8. Prem Prakash Singh
 9. Shashi Kant Singh
 10. Ravi Kant Singh
 11. Sanjay Kumar
- Sl. No. 7 to 11 are sons of Sri Bishewshar Prasad Singh
- All residents of village Jamuain, P.S. Sherghati, District Gaya.

.... Petitioners

Versus

1. The State of Bihar
2. The Collector, Gaya
3. The Additional Collector, Gaya
4. The S.D.O.-cum-Deputy Collector, Land Reforms, Sherghati, Gaya.
5. The Anchal Adhikari, Sherghati, Gaya.

.... Appellants-Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shree Ganesh
For the Respondent/s : Mr. Manoj Priyadarshi

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

6 03-10-2016 Heard learned counsel for the petitioners and learned
counsel appearing for the opposite parties.

The civil revision application has been filed questioning

the legal sustainability of the impugned order passed by the learned appellate court condoning the delay in filing the appeal.

Learned counsel for the petitioners vehemently argued that the appeal was filed after a long delay of more than five years but learned appellate court has wrongly condoned the said delay. Learned appellate court has not considered the material submissions made on behalf of the parties and has summarily allowed the prayer on behalf the appellants-opposite parties for condonation of delay. Learned counsel has relied upon a decision in the case of **Union of India & Ors. Vs. Har Dayal, AIR 2010 (2) SC 1155** in support of his submission that the delay, as condoned by the appellate court, cannot be sustained in the eye of law. However, it has not been the submission on behalf of the petitioners that the learned court below has committed error of jurisdiction in passing the impugned order.

Learned counsel appearing for the opposite parties has supported the impugned order.

After considering the submissions and after perusal of the impugned order, it is evident that a suit was filed by the plaintiffs-petitioners for declaration of title and possession over the suit property. The suit was decreed in favour of the petitioners. According to the learned counsel for the petitioners, the suit land

belongs to the plaintiff-petitioners and they have been in possession of the same, as owner thereof.

The State-opposite Party has filed an appeal against the said judgment and decree. A prayer was made by the appellant under Section 5 of the Limitation Act for condonation of delay in filing of the appeal. Learned court below, after hearing the parties, has come to the conclusion that the appellants have succeeded in establishing that they were prevented by sufficient cause in not preferring the appeal in time.

In course of submission before this Court, nothing could be pointed out by the petitioners that the State-appellants deliberately caused the delay in filing the appeal. It is also not the case on behalf of the present petitioners that the State-appellant has made undue gain by filing the appeal after the prescribed period of limitation. It is apparent that after the condonation of the delay, the only thing which can happen is that the appeal in the court below would be heard on merits. This, in the opinion of this Court, cannot be sufficient ground, as urged on behalf of the petitioners, for declining the prayer for condonation of delay. Their Lordships in the case of **Poonam Vs. Harish Kumar, (2012) 12 SCC 527** and in the case of **B. Madhuri Goud Vs. B. Damodar Reddy, (2012) 12 SCC 693**, have laid down that while

considering the prayer for condonation of delay, the facts of the case, the position of parties, nature of litigation, period of delay, etc. are cumulatively to be considered and it is only in case of willful laches on the part of the party-appellant for condonation of delay, that the prayer for condonation of delay should be refused.

In the facts and circumstances as discussed, this Court is not persuaded to find that the learned court below has committed any jurisdictional error or material irregularity in passing the impugned order.

Accordingly, the civil revision application is dismissed.

(V. Nath, J.)

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