

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.262 of 2015

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1. The State Of Bihar Through District Magistrate Cum Collector Jehanabad
 2. Deputy Collector, Land Reforms, Jehanabad.
 3. Anchal Adhikari/Civil Officer, Jehanabad , Anchal- Jehanabad.

.... Appellants

Versus

Janki Yadav Son of late Jamuna Yadav Resident of Village- Erki tolla-
Madarpur, Post Office and Police Station- Jehanabad, District Jehanabad.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Neeraj Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 27-06-2016 Heard Mr. Neeraj Kumar, learned Counsel for the appellants in the Interlocutory Application (I.A. No. 9458 of 2015) which has been filed for condonation of delay of eleven months ten days in filing this appeal.

Learned Counsel for the appellants has submitted that the delay has been caused due to movement of the file at different stages in the hierarchy of the State officials and there was no negligence and deliberate delay by these appellants. The learned Counsel has also referred to the statements made in limitation petition in support of his submission.

From perusal of the judgments of both the courts below, it transpires that the suit was filed against the present appellants in the year 1989, and even after appearance the defendant-appellants did



not file written statement and did not contest the suit, which came to be decreed on 4.5.2006. Even thereafter, the appellants did not become vigilant and filed the appeal against the said judgment and decree in the year 2014, after a lapse of more than eight years. The learned appellate Court below has considered the prayer for condonation of delay and has come to the conclusion that there is no proper explanation for the much belated filing of the appeal. Surprisingly, even thereafter the appellants did not become conscious of the requirement of taking expeditious steps for moving the higher forum and have filed the present appeal after a delay of eleven months ten days. The solitary explanation, as is apparent from the petition for condonation of delay, is that the delay occurred due to placing of the file before the different state authorities for seeking opinion for filing the Second Appeal. It has, however, been nowhere stated that those state officials were unaware of the prescribed period of limitation within which this appeal was to be presented. There is also no averment in the petition for condonation of delay exhibiting due urgency in the appellants. The casual approach of the appellants is therefore explicit.

Keeping in view the principle in this regard as laid down by the Apex Court in the case of ***Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649***, this Court is not inclined to accept the explanation and condone the delay.

The Interlocutory Application (I.A. No. 9458 of 2015) is, accordingly, dismissed.

This Second Appeal is also dismissed as barred by
limitation.

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(V. Nath, J.)

