

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.2 of 2016

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1. State of Bihar through the Collector Samastipur.
 2. Circle Officer, Dalsingsarai, Samastipur.

.... Appellants

Versus

1. Bijay Kumar Poddar
2. Ajay Kumar Poddar
3. Ashay Kumar Poddar
4. Binay Kumar Poddar All sons of Late Deo Narayan Poddar
5. Prakash Kumar Poddar
6. Ganesh Kumar Poddar
7. Rajesh Kumar Poddar
8. Sunil Kumar Poddar All sons of Late Suraj Narayan Poddar
9. Mat Sawari Devi wife of Late Jogendra Poddar
10. Arbind Kumar Poddar
11. Ravindra Kumar Poddar
12. Brijesh Kumar Poddar
13. Mukesh Kumar Poddar All sons of Late Jogendra Poddar All are residents of Mohalla - Chakloman, Ward No. 3, Dalsingsarai, District - Samastipur.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Abhinay Raj
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 29-06-2016 Heard learned Counsel for the appellants.

The Interlocutory Application (I.A. No. 122 of 2016) has been filed for condonation of delay of one year three months and nine days in filing this appeal, though in the Interlocutory Application the prayer has been made for condonation of delay of one year ten months.

It appears that the judgment and decree was passed in the appeal on 30.1.2014 and the certified copy of the same was obtained on 21.7.2014 by the appellants. However, it has been stated that the District magistrate was informed on 28.11.2014 for



considering the matter to file appeal and accordingly the record was placed before the dealing Assistant on 19.12.2014. From the further statement it appears that the record eventually came to be placed before the Principal Secretary on 26.12.2014 for sending the same to the law Department and the same was received back from the Law Department on 5.1.2015 and then again after lapse of nearly eight months the file was sent to the law Department on 24.9.2015. This appeal appears to have been presented for filing on 4.11.2015 and after removing the defects this appeal has been filed on 5.1.2016. In the backdrop of these facts, prayer has been made for condonation of delay.

From the records it transpires that even after allowing time taken in obtaining the certified copy of the of the judgment under appeal the same has been filed after a long delay for which there is no cogent explanation. There is also no statement in the petition that the appellants were ignorant of the law of limitation and of the fact that there is a period prescribed for filing the appeal. The casual manner in which the matter has been dealt with by the respondents is writ large from the averments in the limitation petition. The Apex Court in the case of ***Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649***, after considering the earlier decisions pertaining to liberal approach to be adopted in condonation of delay has laid down certain principles and one of those principles is that the limitation may not be condoned when the casual approach in the matter is evident.

In this view of the matter, this Court is not satisfied that the

appellants have come out with sufficient reasons explaining the long delay of one year three months and nine days in filing this appeal. Accordingly, the Interlocutory Application (I.A. No. 122 of 2016) is dismissed. Consequently this second appeal is also dismissed as barred by limitation.

(V. Nath, J.)

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