

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1025 of 2016

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Murari Prasad

.... Petitioner/s

Versus

Puniya Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajkumar Rajesh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 12-07-2016

Heard learned counsel for the petitioner.

Perused the order passed by the court below dated
07.08.2015 passed by Subordinate Judge-II, Biharsharif (Nalanda)
in Title Suit No.151 of 1971.

It appears that earlier the defendants were debarred
from filing the written statement. Subsequently they appeared and
filed application for condoning the delay and for accepting the
written statement. The court below considered the grounds for
condoning the delay and thereafter considered the settled
principles of law and held, for the interest of justice, that the
written statement filed by defendants is to be accepted. Therefore,
the court below awarded cost and then has accepted the written
statement. Therefore, in my opinion, it cannot be said that the
court below has no jurisdiction to accept the written statement
even after 90 days. It has already been held by the Hon'ble

Supreme Court in the case of **Sandeep Thapar Vs. SME Technologies Private Limited, 2014 (2) P.L.J.R. 284 (SC)** that power of Court to extend time for filing written statement beyond time schedule prescribed by Rule 1 is not taken away completely. Extension of time is permissible not in a routine manner but only if it was needed to be given in exception cases so as to grave injustice. In the present case, the Court considered the explanation for delay and thereafter it has condoned the same and extended time. The written statement has already been filed, which has been accepted.

In my opinion, therefore, the order cannot be said to be irrational order or it has occasioned failure of justice so as to call for interference in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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