

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Revision No.16 of 2015**

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Raman Kumar Verma @ Anand Prasad Verma S/o Late Bindeshwari Prasad Verma, resident of Mohalla- Mogalpura, Ward No. 17, P.S.- Laheriasarai, District- Darbhanga.

.... .... Petitioner

Versus

1. Smt. Rukmini Devi W/o Late Binda Bhagat, resident of Mohalla- Mogalpura, Ward No. 17, P.S.- Laheriasarai, District- Darbhanga.
2. Santosh Kumar Bhagat
3. Binoy Kumar Bhagat
4. Manoj Kumar Bhagat all Sons of Late Binda Bhagat
5. Hira Kumar D/o Late Binda Bhagat O.P. Nos. 2 to 5 are resident of Mohalla- Mogalpura, Ward No. 26, P.S.- Laheriasarai, District- Darbhanga.
6. Manju Devi W/o Ishwar Dayal Prasad, resident of Village & P.S. Mahesi, P.O. Katha, District- Purvi Champaran, Motihari.
7. Ranju Devi W/o Shardanand Prasad, resident of Village Damodarpur, P.O. & P.S. Kanti District- Muzaffarpur.
8. Sima Devi W/o Rabindra Chaudhary, resident of Village Nagshanda, P.O. & P.S. Kanti District- Muzaffarpur.
9. Juhi Chawala W/o Sanjeev Kumar, resident of Village Lakhanpur, P.O. & P.S. Bharwaza, District- Muzaffarpur.
10. Sudha Devi W/o Radhe Shyam, resident of Village Chauta, P.O. Kamtoul, P.S. Kamtoul, District- Madhubani.
11. Most. Babita Devi W/o Late Shiv Kumar Bhagat, resident of Mohalla Mogalpura, ward No.26, P.S. Laheriasarai, P.O. Lalbagh, District- Darbhanga.
12. Smt. Manju Sinha W/o Dharmendra Kumar Sinha, resident of Tank, Laheriasarai, District- Darbhanga.

.... .... Opp.Parties

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**Appearance :**

For the Petitioner/s : Mr. Jitendra Kishore Verma, Adv.

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**  
**ORAL ORDER**

2     18-07-2016                      Heard Mr. Jitendra Kishore Verma, learned counsel  
appearing for the petitioner.

This revision application has been filed questioning the impugned order, by which the learned court below has allowed the prayer of the plaintiff- appellant in the appeal, as made under Order 41 Rule 19 of the C.P.C. for readmission of the appeal and

thereby has readmitted the appeal for hearing.

From the averments made in the revision application and on consideration of the submissions on behalf of the petitioner, it is manifest that the suit filed by the plaintiff was dismissed. Thereafter the appeal was preferred. However, the said appeal remained pending and ultimately on 4.6.1992 the same was dismissed for want of prosecution. Thereafter the plaintiff-appellant filed a petition on 30.6.1992 for readmission of the appeal. By the impugned order the learned court below has restored the appeal after considering the pleadings and evidence adduced on behalf of the parties.

Mr. Jitendra Kishore Verma, learned counsel for the petitioner, has submitted that the learned court below has committed material irregularity in passing the impugned order, inasmuch as the plaintiff- appellant, who remained absent for more than 1 1/2 years before the date of dismissal of the appeal on 4.6.1992, has failed to furnish any explanation for long and continuous absence for that period. It has been, therefore, propounded that the explanation for the absence on the day when the dismissal of the appeal occurred was not itself sufficient as the plaintiff-appellant was also required to establish the sufficient cause for non-appearance on the previous date as well. It has been



pointed out that there has been no explanation for previous absence in the appeal by the plaintiff-appellant but the learned appellate court below has failed to consider that aspect before passing the order for readmission of the appeal. Learned counsel for the petitioner has relied on the decision of the Apex Court in the case of **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & ors., 2013(12) SCC 649**, for elaborating his submissions with regard to the concept of sufficient cause.

After considering the submissions and perusal of the impugned order it is manifest from the order sheet (Annexure 1) of the title appeal that the plaintiff remained continuously absent for a long period till dismissal of the appeal on 4.6.1992 in default. The plaintiff- appellant thereafter filed a petition on 30.6.1992 within 30 days from the date of dismissal as required in law praying for readmission of the appeal. From the impugned order it transpires that the learned court below after scrutiny of evidence on record has concluded that that the plaintiff has established sufficient cause for readmission of the appeal. The learned court below has, however, also imposed cost apparently in order to balance the equities. In *Esha Bhattacharjee (supra)* also, the emphasis is on condonation of delay but according to the

principles laid down therein. This Court is not persuaded to hold that the learned court below has committed error of jurisdiction or material irregularity in passing the order impugned restoring the appeal. Even otherwise also the restoration of the appeal would only result in its disposal on merits which will in no way cause prejudice to the petitioner.

The revision application is, accordingly, dismissed. However, as the petitioner, who is respondent in the appeal, has already entered appearance in the said appeal and the learned counsel for the petitioner has prayed for direction for disposal of the appeal within a time frame, this Court directs, in the facts and circumstances of this case, to the appellate court below to dispose of the appeal preferably within a period of three months from the date of receipt/ production of a copy of this order. In view of the pendency of the appeal since 1987, it is further directed that the appellate court below will not grant unnecessary adjournments to the parties and the adjournment may be granted only in unavoidable circumstances.

Let a copy of this order be communicated the court below forthwith.

The revision application stands dismissed with directions.

Surendra/-

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**(V. Nath, J)**