

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.330 of 2014

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Shambhu Bhagat

.... Appellant/s

Versus

Smt. Nilam Devi

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

6 06-12-2016 Heard Mr. D.Choubey, learned Counsel appearing for the appellant in the Interlocutory Application (I.A. No. 9674 of 2014) which has been filed for condonation of delay of three years ten months and six days in filing this Second Appeal.

It has been stated in the limitation petition (I.A. No. 9674 of 2014) that though the appellant was sincerely making pairvi in the case but the conducting advocate did not advice him about the period of limitation in filing the second appeal and, as such, the delay has occurred. It has been further stated that the appellant was not aware of the period of limitation prescribed in the law for filing the second appeal and his file was also kept by the junior counsel in the Civil Court and therefore the present appeal could not be filed within time.

Mr. Choubey, learned Counsel for the appellant, has submitted that the appellant had no knowledge of law particularly with regard to the period of limitation and he was also not advised in this regard by his advocate in the court below. No further submission has been made on behalf of the appellant.



After considering the submission and the averments made in the limitation petition, this Court finds that the appellant has contested the appeal in the court below. This fact is not denied on behalf of the appellant. In this backdrop this Court is not inclined to rely upon the contention and plea of the appellant that he could not gather knowledge of dismissal of the appeal for nearly four years. The principles with regard to condonation of delay has been now well laid down by the Apex Court in *Esha Bhattacharjee v. Raghunathpur Nafar Academy*, (2013) 12 SCC 649, where their Lordships have drawn distinction between inordinate delay and delay of few days and have further also ruled that the casual manner in explaining the delay must not be accepted.

After considering the facts and circumstances this Court is not persuaded to hold that the appellant has established sufficient cause for not filing the second appeal in time. The Interlocutory Application is accordingly dismissed.

The appeal is also thus dismissed as barred by limitation.

(V. Nath, J.)

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