

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2348 of 2015

In

C. REV. 155 of 2007

- =====
1. Shailendra Kumar.
 2. Satyendra Kumar.
 3. Shailesh Kumar.
 4. Sunil Kumar. All Sons of Late Shyam Babu.
 5. Lilavati Devi, Wife of Late Shyam Babu. All SI. Nos. 1 to 5 are residents of North Sri Krishna Puri, Police Station- Sri Krishna Nagar, Town and District- Patna, at present permanent resident of Mohalla-Dariyapur Gola, P.S. - Pirbahore, District - Patna.
 6. Sujata Kumari, Daughter of Late Shyam Babu, Wife of Dr. Manoj Verma, resident of 601, Hari Om Apartment, Exhibition Road, Police Station-Gandhi Maidan, Town and District-Patna.

.... Petitioners

Versus

1. The Union of India, Ministry of Finance (Department of Revenue of Banking), New Delhi.
2. The Competent Authority under Section 3(6) of the Central Act, 13 of 1976, having its office at Aaykar Bhawan, P/7 Chowringhee Square, Calcutta - 1.
3. The Officer on Special Duty, Competent Authority, 20 British Indian Street, Calcutta - 29.
4. Appellate Authority under Section 3(a) of Act, 13 of 1976, Ministry of Finance (Department of Revenue and Banking), New Delhi.
5. Tax Recovery Officer, Income Tax Department, Patna.
6. The State of Bihar, Home Department (Special Section), Bihar Secretariat, Patna.

.... Opposite Parties

=====

Appearance :

For the Petitioners	:	Mr. Alok Kumar @ Alok Kr Shahi, Advocate.
For the O.Ps. Nos. 1 to 5	:	Mr. Akshay Bahadur Mathur, CGC.
For the O.P. No. 6	:	Mr. Deepak Sahay Jamuar, A.C. to A.A.G. 6.

=====

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 01-03-2016 Heard learned counsel for the petitioners and learned
counsels for the Union of India and for the State.

The petitioners through this application, seek

restoration of Civil Review No. 155 of 2007 which was dismissed for default on 29.01.2008 due to non-compliance of peremptory order dated 28.01.2008 passed by this Court.

The Civil Review application was filed with respect to the judgment and order dated 17.07.2007 passed in L.P.A. No. 01 of 1997 by which the appeal was dismissed and the dismissal of writ petition by learned Single Judge was upheld. The Civil Review application was filed on 14.08.2007 with a large number of defects and on account of non- removal of the defects, the matter was placed before the Lawazima Board. On 06.11.2007 no one appeared on behalf of the applicants and four weeks final time was allowed to learned counsel for the applicants to remove the stamp report defect nos. 1 to 5. The said defects were not removed and accordingly, the matter was placed before the Bench of this Court. On 28.01.2008 the Division Bench granted time till the next day, i.e., 29.01.2008 to comply with the order dated 06.11.2007 of the Lawazima Board, failing which the application shall stand rejected without further reference to a Bench. The order was not complied with and accordingly, the Civil Review application was rejected on 29.01.2008.

Thereafter, no steps were taken in the matter by the learned counsel for the petitioners and ultimately the restoration application has been filed on 03.09.2015 after a delay of more than

7½ years and there is no explanation for gross laches on the part of the petitioners in the matter except stating that the case was listed on 28.01.2008 and the same was not marked due to mistake and, therefore, petitioners could not appear on 28.01.2008. No explanation is given as to why the petitioners have not appeared on 06.11.2007 before the Lawazima Board and not complied with the order of the Lawazima Board to remove the stamp report defects nos. 1 to 5 within a period of four weeks. No explanation has also been given as to what steps were taken by the petitioners after filing of the Civil Review application on 14.08.2007 for removing the defects as the stamp report on defects itself was made on 25.08.2007.

In the aforesaid view of the matter, it is evident that no good ground has been shown by the petitioners for restoration of the Civil Review application.

The restoration application is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

U.K./-sudip

U			
---	--	--	--