

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.418 of 2015

Pratibha Kumari @ Pratima Kumari, W/o Aditya Kumar, son of Jitendra Kumar Singh R/o village + P.O. Belahi Nilkanth, P.S. Runni Saidpur, Distt. Sitamarhi, presently residing at with her father Shashi Bhushan Singh, R/O Alampur, P.S. Kachidargah, Dist. Patna.

.... Appellant

Versus

Aditya Kumar son of Jitendra Kumar Singh R/o Village + P.O. Belahi Nilkanth, P.S. Runni Saidpur, Distt. Sitamarhi.

.... Respondent

Appearance :

For the Appellant : Mr. Shiw Kumar Prabhakar

For the Respondent : None.

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 23-08-2016

Interlocutory Application no. 8838 of 2015 has been filed for condonation of delay. There is a delay of 101 days in filing this appeal.

Learned counsel for the appellant draws attention to the application for condonation of delay to say that the wife was not aware of the proceedings and it is an *ex parte* decree for restitution of conjugal rights. We are not satisfied. The simple reason is that, the wife was fully aware of the proceedings inasmuch as she had already filed a MJC No. 4132/2014 before this Court for transfer of the case from Family Court, Sitamarhi to Family Court, Patna, and was

fully aware of the matrimonial suit for restitution of conjugal rights. While making an application before this Court, no prayer was made for stay of proceedings before the Sitamarhi Court in the meantime, or, nor any stay was pressed in this regard before this Court. Having moved this application before this Court, she totally abandoned the proceedings before the lower court wherein the matrimonial case was allowed on 24.04.2015 *ex parte*.

Thus, in our opinion, no sufficient cause is shown for condoning the delay in filing this appeal.

Interlocutory Application no. 8838 of 2015 for condonation of delay is, thus, dismissed. Accordingly, the appeal also stands dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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