

HIGH COURT OF CHHATTISGARH, BILASPUR**CR No. 17 of 2016**

1. Smt. Parwati Wd/o Ramsajivan, Aged About 46 Years
2. Urmila D/o Ramsajivan, Aged About 26 Years
3. Pooja D/o Ramsajivan, Aged About 23 Years
4. Ramchandar S/o Ramsajivan, Aged About 22 Years

All are R/o Village Pachira, Tahsil And District Surajpur,
Chhattisgarh(Applicants)

---- Applicants

Versus

1. Smt. Gomti , Alleged Wife Of Ramsajivan, Aged About 48 Years,
2. Santosh Kumar S/o Ramsajivan, Aged About 31 Years
3. Sushma D/o Ramsajivan, Aged About 29 Years
4. Ashok Kumar S/o Ramsajivan, Aged About 27 Years

All area R/o Chopra Colony, Vishrampur, Tahsil And District
Surajpur, Chhattisgarh

5. South Eastern Coal Field Ltd. Vishrampur, Through: The General
Manager, S.E.C.L., Vishrampur, Tahsil And District Surajpur,
Chhattisgarh
6. Regional Commissioner, Coal Mines Provident Fund, Office
Shakti Nagar, Gupteshwar Road, Jabalpur (M.P.)
7. General Public

---- Respondent

For Petitioners Shri Ashok Shukla, Advocate

For Respondent No.5 Shri V.R. Tiwari, Advocate with Ms. Astha
Shukla, Advocate

For Respondent No.6 Shri R.R. Sinha, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/08/2016

1. The appeal preferred by the applicants under Section 384 (2) of the Indian Succession Act, 1925 has been dismissed by the first appellate Court holding that the delay of 50 days in filing the appeal has not been explained properly and no sufficient cause has been shown. Against the said order, the instant revision has been filed.
2. I have heard learned counsel appearing for the parties, perused the pleadings and the documents annexed therewith.
3. The application for succession certificate was partly granted by the Succession Court, against which the applicants preferred an appeal before the first appellate Court with delay of 50 days in which they have pleaded that the applicant No.1, who is the widow of Ramsajivan, was suffering from fever and, therefore,

the appeal could not be preferred well within time, which was duly supported by an affidavit. Against which reply was filed, however, no affidavit controverting the cause shown by the applicants was filed and, as such, sufficient cause was shown for condoning the delay in filing the appeal.

4. The Supreme Court in **N. Balakrishnan** (supra) observed that the sufficient cause has to be construed liberally especially when the delay is not deliberate and *mala fide*. Paras 11 & 12 of the said decision are as under :

11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the Courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on

public policy. It is enshrined in the maxim *interest reipublicae ut sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain Vs. Kuntal Kumari* and *State of West Bengal Vs. Administrator, Howrah Municipality*.”

5. Thus, applying the ratio laid down by the Supreme Court in **N. Balakrishnan** (supra) to the facts of the case at hand, it would appear that the delay in filing the appeal is neither *mala fide* nor intentional. In fact, sufficient cause has been shown by the applicants for condoning the delay in filing the appeal.

6. Accordingly, the impugned order dated 9-12-2015 is set aside; delay in filing the appeal is condoned; and restored the Misc. Civil Appeal (unregistered) to its original file of the Court of District Judge, Surajpur, for hearing and disposal of the same, in accordance with law and on its own merits, as expeditiously as possible, preferably within a period of three months from the date of receipt of certified copy of this order.
7. As an upshot, the civil revision is allowed to the extent indicated *supra*. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

Gowri