

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPC No. 774 of 2013**

Savitri Devi W/o Late Rameshwar Dubey Aged About 67 Years R/o Village- Rajkheta, Tah. & PS Wadrafnagar, Civil & Revenue Distt Surguja, CG

**---- Petitioner**

**Versus**

1. Kishun S/o Tunnu R/o Vill Rajkheta, PS Wadrafnagar, Civil & Revenue Distt Surguja, CG
2. The Board Of Revenue Bilaspur Division, PS Civil Line, Civil & Revenue Dist Bilaspur, CG
3. The Additional Commissioner Surguja Division, Surguja, PS Ambikapur, Civil & Revenue Distt Surguja, CG
4. The Additional Collector Ramanujganj, PS Ramanujganj, Civil & Revenue Distt Ramanujganj-Balrampur, CG
5. The Sub Divisional Officer (Revenue) Wadrafnagar, PS Wadrafnagar, Civil & Revenue Distt Surguja, CG
6. The Tahsildar Wadrafnagar, PS Wadrafnagar, Civil & Revenue Distt Surguja, CG

**---- Respondents**

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|----------------------------|---|------------------------------------------|
| For Petitioner             | : | Shri D.N. Prajapati, Advocate            |
| For Respondent No.1        | : | Shri S.D. Singh, Advocate                |
| For Respondents No. 3 to 6 | : | Shri Chandresh Shrivastava, Panel Lawyer |

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**S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**02/03/2016**

With the consent of learned counsel appearing for the parties, the matter

is heard finally.

1. Learned counsel for the petitioner submits that the petitioner filed revision before the Addl. Commissioner which was belated by 20 months. The Commissioner adopting hyper-technical approach, rejected her application for condonation of delay aggrieved by which, the petitioner preferred revision before the Board of Revenue. The Board of Revenue also adopted unduly restricted approach by affirming the reasoning of the Commissioner that the appellant has not explained each and every day of delay. Learned counsel for the petitioner submits that the delay was bonafide.
2. The petitioner preferred an application under Section 5 of the Limitation Act before the Commissioner. The application is detailed one, in which it was stated that the petitioner was not aware of the order passed by the Addl. Collector and when the notice was received, appeal has been filed which is supported with an affidavit also. The petitioner Savitri Devi is resident of a village and aged 67 years, who was prosecuting the appeal before the Commissioner.
3. Learned counsel for the respondents, however, opposed the prayer for condonation of delay by submitting that if the appeal is not filed within the limitation prescribed and no steps are taken, the order attained finality and right is create in favour of the party in whose favour order is passed. Therefore, delay cannot be condoned unless there are sufficient cause shown.
4. It appears that the petitioner who is a villager and a lady has come out with the explanation that she was not informed of the order passed against her. May be that she was noticed and she was represented through counsel but it appears that order was not communicated to her and when she came to know about the same, she filed appeal with prayer for condonation of delay. In that view of the matter, the delay

ought to be condoned to allow the parties to contest the matter on merits in the larger interest of justice. Therefore, the impugned order cannot be sustained and is therefore set aside. Delay in filing appeal before the Addl. Commissioner is condoned. The matter is remanded to the Addl. Commissioner for consideration of petitioner's appeal on merits.

5. The petition is accordingly allowed to the extent and in the matter indicated above.

Sd/-  
**(Manindra Mohan Shrivastava)**  
Judge