

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2152 of 2016

1. Vijay Kumar Sidara S/o Bhagwan Das Sidara, Aged About 36 Years
2. Smt. Pooja Sidara, W/o Sunil Kumar Sidara, Aged About 37 Years

Both are R/o Near Dhan Mandi, Torwa Bilaspur, Police Station Torwa, Tahsil, Civil & Revenue District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Prabhat Kumar Gupta S/o Late Shyam Manohar Gupta, Aged About 55 Years
2. Mus. Saraswati Bai Gupta, W/o Late Shyam Manohar Gupta, Aged About 75 Years
3. Praveen Kumar Gupta, S/o Late Shyam Manohar Gupta, Aged About 51 Years

All are R/o Kilaward, Juna Bilaspur, Police Station City Kotwali, Tahsil Civil & Revenue District Bilaspur Chhattisgarh

---- Respondent

For Petitioners

Shri R. K. Agrawal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

24/08/2016

1. Challenge in this petition is to the order passed by the Board of Revenue, Bilaspur rejecting petitioners' revision application.

2. In a partition proceedings before the Tahsildar, Masturi, an order was passed on 10.12.2010 directing partition on the basis of Fard Batwara. The order was appealed by respondent Nos.1 & 2 before the Sub Divisional Officer (Revenue) {henceforth 'the SDO (R)'}, Masturi along with an application under Section 5 of the Limitation Act. The application was allowed on 18.10.2012 and the appeal was fixed for final hearing.
3. Appeal preferred by the petitioners before the Additional Collector, Bilaspur was rejected on 24.07.2013 and thereafter the revision application was dismissed by the Additional Commissioner, Bilaspur Division on 26.06.2015. This order of the Additional Commissioner has been affirmed by the Board of Revenue by its impugned order.
4. It is argued that the SDO (R), Masturi should not have condoned the delay because each day's delay was not properly explained by respondent Nos.1 & 2 and there was no bonafides in seeking condonation.
5. Having heard learned counsel for the petitioners, it would appear that while considering the matter, the Board of Revenue has relied on the law laid down by the Supreme Court in the matter of **Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others**¹ to hold that Courts and Tribunals should make all possible endeavor to decide the matter on merits and cases should not be thrown out on technical grounds so that complete

¹ AIR 1987 SC 1353

justice is done between the parties.

6. In this petition under Article 226 of the Constitution of India, this Court has limited jurisdiction to interfere with the judicial discretion exercised by the Court or Tribunal while considering the application for condonation of delay.
7. In view of the law laid down by the Supreme Court in **Collector, Land Acquisition, Anantnag** (supra), this Court does not find any good grounds for interference with the impugned order. Accordingly, the writ petition is dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala