

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 856 of 2016

1. Smt. Kamla Shukla W/o Late Shyamlal Shukla, aged about 65 years, R/o Pachpedi Naka Tikrapara, Raipur, Civil & Revenue District- Raipur, Chhattisgarh(Defendant No.6)

---- **Petitioner**

Versus

1. Smt. Vandana Shukla W/o Late Arun Kumar Shukla, aged about 27 years, R/o Nagdouni Colony, Vyapar Vihar Road, Bilaspur, Civil & Revenue District- Bilaspur, Chhattisgarh
2. Varun Kumar Shukla S/o Late Arun Kumar Shukla, aged about 5 years, Minor Through Natural Guardian Mother Smt. Vandana Shukla W/o Late Arun Kumar Shukla, R/o Nagdouni Colony, Vyapar Vihar Road, Bilaspur, Civil & Revenue District- Bilaspur, Chhattisgarh(Applicants)
3. The Superintendent, Main Post Office, Bairan Bazar, Raipur, Tahsil & District- Raipur, Chhattisgarh
4. The Superintendent, Main Post Office, Bilaspur Division, Bilaspur, Tahsil- Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh
5. The Director Postal Services, Raipur, Postal Division, Raipur, Tahsil- Raipur, Civil & Revenue District Raipur, Chhattisgarh
6. The Common Public, who is concerned

---- **Respondents**

For Petitioner – Shri Shivendu Pandya, Advocate.

For Respondents – None, not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

22-11-2016

1. The instant MCC has been preferred after 197 days of its limitation.
2. Heard on I.A.No.1/2016 for condonation of delay.
3. It is submitted on behalf of the petitioner that learned counsel for the petitioner was busy before another Bench and when he enquired about said Civil Revision No.136/2013 he was informed regarding dismissal of said Civil Revision on 05-02-2016 for want of prosecution. Thereafter, he has filed the instant MCC for restoration of said Civil Revision No.136 of 2013. Hence, the delay is unintentional, bonafide and the same may be condoned and the MCC

may be heard on its merit.

4. Perused the order dated 05-02-2016 passed in Civil Revision No.136 of 2013. The present petitioner was applicant/petitioner in that Civil Revision which was preferred against the order passed by the IVth Additional Judge to the Court of First Additional Sessions Judge, Bilaspur C.G. in Misc. Civil Appeal No.01/12 whereby on the fact that as one Arun Kumar Shukla committed suicide and appellant No.1 Smt. Vandana Shukla was legally wedded wife of said Arun Kumar Shukla the trial Court while passing order in Misc. Civil Suit 33/2008 held that Vandana Shukla wife of said Arun Kumar Shukla is not entitled to receive money of Kisan Vikas Patra in the light of Section 25 of Hindu Succession Act, 1956 (in short 'the Act, 1956'), the appellate Court while discussing the entire facts held that as Section 25 of the Act, 1956 is for the disqualification of murder or abetment of commission of murder, and as said deceased committed suicide which does not come under the ambit of Section 25 of the Act, 1956, along with Varun Kumar Shukla and Kamla Shukla, Smt. Vandana Shukla is also entitled for the amount of said Kisan Vikas Patra and directed that the amount of Kisan Vikas Patra also be given to Smt. Vandana Shukla in addition to those two in whose favour the trial Court ordered.

5. On perusal of I.A.No.1/2016 and other facts, there is no any pointwise explanation regardig the delay when the learned counsel examined the fate of said Civil Revision. It is duty of the petitioner to explain the entire delay as the instant MCC has been preferred after 197 days of its limitation.

6. On due consideration, after considering said fact regarding non-explanation of the delay, also in the light of Section 25 of the Act, 1956 and other facts, this Court is of the considered view that the petitioner has not satisfactorily explained the delay of 197 days, even otherwise said MCC is not maintainable as it is barred by limitation by 197 days.

7. Consequently, I.A.No.1/2016 being devoid of substance is hereby dismissed also the MCC which is barred by limitation by 197 days of its limitation.

8. The MCC dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE