

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 52 of 2015**

1. Arial I Kumar S/o Late Ismail Kumar (Dead) through
2. Rahbariya Kumar W/o Late Ismail Kumar aged about 70 years (mother)
3. Ervin Enesh Kumar S/o Late Ismail Kumar Aged About 40 Years (Brother)
4. Lidiya Kumar D/o Late Ismail Kumar Aged About 50 Years (Sister)
5. Minakshi Kumar D/o Late Ismail Kumar Aged About 43 Years (Sister)

All resident of Sarvamangla Road, Mission Para, Tehsil And Post-Korba, Thana City Kotwali, District- Korba, Chhattisgarh

---- Applicants

Versus

1. Smt. Shikha Kumar W/o Late Arial I Kumar Aged About 40 Years R/o Near M.P. Housing Board Colony, Tehsil-Kumhari, Kumhari, District- Durg, Chhattisgarh

----Respondent

 For Applicant : None
 Respondent – Smt. Shikha Kumar is present in person.

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**Order on Board****07/01/2016**

1. Heard.
2. The respondent- Smt. Shikha Kumar appearing in person submits that she is well aware of the matter and she is defending the matter herself.
3. As the applicants are not represented when the matter is taken up for hearing, the matter is heard on I.A.No.1/2015 for condonation of delay in filing the instant Civil Revision. As per office report, the instant Civil Revision has been preferred after 99 days of its limitation. Against the

impugned order passed by the 1st Additional Principal Judge, Family Court, Raipur (CG) in an execution proceeding arises out of the judgment passed in Civil Suit No. 133A/2007 (Shikha Kumar Vs. Arial I Kumar) wherein the Court below passed a decree of divorce and dissolved the marriage and also directed that the non-applicant shall pay Rs.2000/- per month as maintenance. After the judgment the decree holder had filed the instant execution proceedings wherein it is prayed on behalf of the respondent/applicant decree holder that the judgment debtor i.e. her husband had died in a motor accident on 4.12.2012 and the proposed LRs i.e. applicants had filed a Motor Accident Claims Case before the Tribunal for compensation amount after the death of judgment debtor- Arial I Kumar. It is also prayed that the proposed LRs received the movable and immovable property after the death of the decree holder. The learned execution Court i.e. 1st Additional Principal Judge, Family Court, Raipur held that even after the death of the husband, right of wife for maintenance is not finished. The property of the husband is under obligation for the maintenance and the Court below by allowing the application under Order 1 Rule 10 C.P.C. directed that name of the applicants/ proposed LRs be substituted in the execution proceedings. Against the impugned order dated 11.9.2014, the applicants had challenged the propriety and legality of the same and filed the instant Civil Revision after 99 days of its limitation.

4. As the applicants are not represented, application I.A.No.1/2015 and other documents are perused. Also heard the respondent present in person who opposed the application for condonation of delay in filing the Civil Revision and also made submission for non- maintainability of the instant Civil Revision.

5. As per I.A.No.1/2015 it is submitted that the applicants are laymen and they do not have knowledge of the proceedings of the Family Court, Raipur; they are old and poor people and are residents of Korba and not able to contest the matter at Raipur; due to inadvertence the delay of 99 days has been occurred and the same may be condoned.

6. From perusal of the impugned order dated 11.9.2014, it shows that applicant Nos.3 and 4, Lidiya Kumar and Minakshi Kumar were present in person along with their counsel before the Court below at the time of order passed by the Court below on 11.9.2014, which shows that the applicants were knowledge through their counsel and also vide the presence of the applicants 3 and 4 that the order under Order 1 Rule 10 of the C.P.C. is allowed and the decree holder/applicant was directed to substitute the applicants as LR's of the judgment debtor. If the applicants were present before the Family Court at Raipur and they were represented through a counsel, in the present I.A.No.1/2015 it is nowhere mentioned as to why they have not filed the instant Civil Revision within time before this Court which is situated at a half distance as compared to Korba to Raipur. It shall be the duty of the applicants to explain the delay satisfactorily and same may not be accepted on a general and vague allegations. As the matter is related to the maintenance granted by an authority of law and also one more litigation as shown in Annexure P/8 seems to be pending before 1st Civil Judge, Class II, Raipur between the parties, present respondent and all the present applicants it also shows that more than one litigations are pending between the present parties and the applicants are also contesting the other litigations.

7. On due consideration, this Court is of the view that the applicants have failed to demonstrate satisfactory reason for the delay in filing the

instant Civil Revision. Consequently, I.A.No.1/2015 for condonation of delay in filing the revision is dismissed and also the present Civil Revision is dismissed as barred by limitation.

8. No order as to cost.

Sd/

(Chandra Bhushan Bajpai)

JUDGE