

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (227) No.91 of 2016

Mateen Ahmed, S/o Late Haji Abdul Wahid, Aged about 71 years,
Occupation Agriculturist, R/o Rampur, Tahsil Baikunthur, District
Koriya, Chhattisgarh

---- Petitioner

Versus

State Of Chhattisgarh, Through the Collector, Koriya (Baikunthpur),
District Koriya, Chhattisgarh

w---- Respondent

For Petitioner	: Dr.N.K.Shukla, Senior Advocate with Mr.Roshan Dubey, Advocate
For State	: Mr.Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

06/12/2016

1. Suit filed by the petitioner/plaintiff was decreed by the trial Court on 23.6.2012. Questioning that judgment and decree, first appeal was preferred by the State along with application for condonation of delay as the same has been preferred with a delay of three years.
2. By the impugned order, the First Appellate Court has allowed the application for condonation of delay.
3. The order condoning delay has been challenged by way of this writ petition under Article 227 of the Constitution of India by the petitioner/plaintiff.
4. The First Appellate Court has held that sufficient reason for condoning the delay and also recorded the finding that the suit land is Government land which has been decreed to the extent of 4.90 decimal. However, the First Appellate Court has not

compensated the plaintiff by granting cost.

5. Since sufficient cause has been shown in filing the application for condonation of delay, the First Appellate Court has condoned the delay in filing the application and granted permission to prefer an appeal, which is discretionary order.
6. Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience

¹ (2003) 6 SCC 675

² (2010) 8 SCC 329

³ (2013) 9 SCC 374

of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

7. I do not find any ground to interfere with the order. However, It is held that the petitioner would be entitled for cost of ₹ 5000/- from the respondent/State. Cost shall be paid to the petitioner before the First Appellate Court within a period of one month from today.
8. With the aforesaid observation, the order is modified and the writ petition is disposed of with the aforesaid terms.

Sd/-

(Sanjay K Agrawal)
Judge

B/-