

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1609 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 23851 of 2013**

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Kanishk Sinha, Son of Shri Bimal Bihari Sinha Managing Director, Jasper Motors Private Limited, Resident of 98-A, Mundar Sah, Akashwani Road, Khajpura, P.O. B.V. College, P.S. Shastri Nagar, Patna - 800014, District Patna Sadar.

.... Appellant/s

Versus

1. The Union of India service through the Controller General of Patents, Designs and Trademarks, Government of India, Patent Office Headquarters, Boudhik Sampada Bhawan, Antop Hill, S.M. Road, Mumbai - 400037, Maharashtra.
2. The Deputy Controller of Patents, Designs and Trademarks, Government of India, Patent Office at Kolkata, CP - 2, Sector - V, Salt Lake City, Kolkata - 700091, West Bengal
3. The State of Bihar Service through the Principal Secretary to the Government of Bihar, Department of Commerce and Industry, Vikash Bhawan, Patna - 800001, Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kanishk Sinha (in person)

For the Respond.No.3 : Mr. Sunil Kumar Mandal- SC-3

Smt. Neelam Kumari, AC to SC-3

For Respon. No. 1 : Mr. Kanak Verma, CGC

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 07-02-2017

The appellant invoked the jurisdiction of this Court against the communication dated 26th June, 2013 issued by the Patent Office, Kolkata whereby the application was deemed to be abandoned as the writ applicant failed to file complete specification within the stipulated period of time. The learned Single Bench has permitted the appellant to file fresh application.

The appellant points out that in fact, the application



was complete in all respect and was ordered to be published as per the communication dated 28th April, 2010, Annexure-3 to the writ application, but due to subsequent shifting of the parent office, it has lost the document and consequences have fallen upon the appellant. Therefore, for the mistake of the parent office, the appellant cannot be made to suffer and to file a fresh application.

We have heard learned counsel for the respondents and find that in view of the communication dated 28th April, 2010, it cannot be said that the application of the appellant was incomplete and the return of the application thus, cannot be sustained. Consequently, we set aside the communication dated 26th June, 2013 and direct the respondents-parent office to continue with the process after the letter dated 28th April, 2010 in accordance with law.

The Letters Patent Appeal is, thus, disposed of.

(Hemant Gupta, ACJ)

S.Pandey/-

(Sudhir Singh, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.02.2017
Transmission Date	

