

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.313 of 2016
IN
Civil Writ Jurisdiction Case No. 14851 of 2012

- =====
1. Hadish Ansari Son of Kitaboodin Ansari Resident of Village - Pallia, P.O. - Dehri, P.S. - Rajapur, Anchal - Chausa, District - Buxar.
 2. Kitaboodin Ansari Son of Late Jana Mian Resident of Village - Pallia, P.O. - Dehri, P.S. - Rajapur, Anchal - Chausa, District - Buxar.

.... Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate, Buxar.
3. The Sub-Divisional Officer, Buxar.
4. The Superintendent of Police, Buxar.
5. The Anchal Adhikari, Rajapur, District - Buxar.
6. Sulman Mian Son of Jan Main Resident of Village - Pallia, P.O. - Dehri, P.S. - Rajapur, Anchal - Chausa, District - Buxar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chandra Bhushan Singh

For the State : Mr. Fakhruddin Ali Ahmad, AC to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 14-07-2017

Re:- Interlocutory Application No. 1179 of 2016

The Interlocutory Application has been filed for
condonation of delay under Section 5 of the Limitation Act.

On the ground mentioned in the Interlocutory
Application, the delay in filing the appeal is condoned.

Re:-Interlocutory Application No. 4612 of 2017

The Interlocutory Application has been filed for



substituting the legal heirs of respondent No. 6. The heirs and legal representatives has been mentioned in paragraph No. 3 of the application.

Let the legal heirs of respondent No. 6 as mentioned in para 3 of the Interlocutory Application be substituted in place of respondent No. 6.

Re:-L.P.A No. 313 of 2016

Looking to the nature of order, it is not necessary to notice the legal heirs, for the present.

On 17.05.2011, at the instance of the present appellants, C.W.J.C. No. 2858 of 2005 was disposed of by this Court with a direction to the appellants herein to appear before the District Magistrate, Buxar within a period of four weeks with a certified copy of the order and a detailed representation raising all the grievances as was raised in the writ petition and the District Magistrate, Buxar was to take action as directed by this Court on 17.05.2011. It seems that after the order was passed on 17.05.2011 in C.W.J.C. No. 2858 of 2005, the appellants through their counsel received information about the same on 24.07.2011. He immediately applied for certified copy of the order dated 17.05.2011 passed in C.W.J.C. No. 2858 of 2005 on 25.07.2011 and filed the representation before the District Magistrate, Buxar on 30th July, 2011. However, as the application was filed on



30th July, 2011 i.e. beyond the period of four weeks granted by this Court on 17.05.2011 in C.W.J.C. No. 2858 of 2005, by the impugned order dated 30th August, 2011, the District Magistrate, Buxar dismissed the Case No. 73 of 2011(Misc.) and challenging the aforesaid order, the writ petition in question being C.W.J.C. No. 14851 of 2012 was filed and the learned Writ Court by the impugned order dated 04.12.2015 has rejected the same only on the ground that after four weeks' time was granted on 17.05.2011, when the appellants did not file the application within four weeks, no indulgence can be made.

However, we are of the considered view that while doing so, learned Writ Court completely lost site of the averments made by the appellants in the original writ petition. From para 4 onwards the appellants have indicated that they have received information about the order passed on 17.05.2011 only on 24.07.2011 and after obtaining the certified copy on 25.07.2011, they filed the application before the District Magistrate, Buxar on 30th July, 2011. That being the factual position, it was a fit case where the petition should have been allowed.

Accordingly, we allow the petition and quash the order passed by the District Magistrate, Buxar in Case No. 73 of 2011(Misc.) and direct the District Magistrate, Buxar to proceed to



decide the representations filed by the appellants on 30th July, 2011 as already directed by this Court on 17.05.2011 in C.W.J.C. No. 2858 of 2005 after noticing the legal heirs of the deceased respondent No. 6 herein. The District Magistrate, Buxar shall pass order within a period of six months from the date of receipt of certified copy of the order.

With the aforesaid, the appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20/07/2017
Transmission Date	NA

