

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.298 of 2016

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Sanjeev Kumar Mishra, Son of Late Mahendra Narayan Misha, Resident of Mohalla-Manik Sarkar Ghat Road, P.S.-Adampur (Kotwali), District-Bhagalpur.

.... Petitioner.

Versus

Bibhuti Bhushan Roy, Son of Late Budhinath Ray, Resident of Mohalla-Manik Sarkar, Ghat Road, P.S.-Adampur (Kotwali), District-Bhagalpur.. Opposite Party.

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 19-04-2017

Heard Mr.Deepak Kumar Sinha, learned counsel appearing for the petitioner in the interlocutory application (I.A.No.2861/2017) which has been filed for condonation of delay of 114 days in filing this revision application.

The learned counsel for the petitioner has submitted that by the impugned order dated 04.05.2016, the learned court below has rejected the petition dated 18.06.2013 filed on behalf of the defendant-petitioner under Order 32A Rule 5 and Section 151 C.P.C praying for rejection of the plaint on the ground that it is an abuse of the process of the court. The learned counsel for the petitioner has further submitted that in view of the fact that even after the dismissal of the said petition by order dated 04.05.2016, the said petition continued on the Board of the Court and finally when it could be discovered that the same was continuing in the Board of the Court by



mistake that the order was passed to rectify the said mistake. On this base, it has been contended that there is sufficient ground for condonation of delay in filing this application.

On query by the Court, regarding the prima facie merit in the revision application, nothing could be pointed out on behalf of the petitioner as to how a prayer would be maintainable for rejection of plaint under Order 32A Rule 5 which in fact does not envisage such a course. It is also evident that the suit has been filed for specific performance of contract against the defendants and in that view of the matter the provision of Order 32A Rule 5 C.P.C. would also not be attracted. This Court has gone into the prima facie merit of the revision application only for the purpose of considering the prayer for condonation of inordinate delay of 114 days in filing this revision application. This Court does not find that the petitioner has made out sufficient cause for condonation of delay in filing this revision application.

The interlocutory application (I.A.No.2861/2017) is dismissed and consequently the revision application is also dismissed as barred by limitation.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.05.2017
Transmission Date	

