

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.81 of 2013

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Ramesh Chandra Choudhary

.... Petitioner/s

Versus

State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Tiwary

For the Respondent/s : AC to SC 22

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

- 11 22.06.2017 1. Heard learned counsel for the petitioner as well as learned counsel for the State.
2. This revision petition has been preferred against the order dated 13.6.2012 passed by the Bihar Public Works Contracts Dispute Arbitration Tribunal in Reference case no. 123/2010 by which and whereunder learned Tribunal dismissed Reference case no. 123/2010 on the ground of limitation as according to Tribunal the aforesaid reference case was time barred for near about five years.
3. Admittedly, parties entered into an agreement on 25.5.2005 and work was completed within the stipulated period. It is also an admitted position that final bill was prepared on 22.6.2008 but payment was not made to the petitioner though the petitioner went to the concerned authority several times. However, reference case was filed in the year 2010 along with petition under section 5 of the Limitation Act for condoning the delay but the learned Tribunal refused to condone the delay and dismissed the claim of the petitioner.
4. Learned counsel appearing for the petitioner submits that



there was sufficient grounds to condone the delay as the petitioner, specifically, pleaded before the Tribunal that in spite of his best effort, the concerned department did not make payment rather they kept payment in abeyance on the basis of false assurance given to the petitioner. He further submits that moreover, genuine claim of the petitioner can not be rejected only on technical ground. He also submits that, as a matter of fact, Tribunal heard the matter on merit but dismissed the reference case on the ground of limitation and has not even whispered regarding merit of the case.

5. On the other hand, learned counsel appearing for the State refutes the above stated submissions and submitted that the petitioner approached the Tribunal after five years of preparation of the final bill and, therefore, there was long delay in filing reference case. He further submits that learned Tribunal rightly dismissed reference case on the point of limitation as no sufficient cause was shown by the petitioner in committing the aforesaid long delay.

6. No doubt, the petitioner approached the Tribunal after five years of preparation of final bill but admittedly, he had been knocking the door of the concerned officials as well as department for getting his payment since three to four years and when the petitioner could not succeed in getting payment, he filed the reference case.

7. Now, it is well settled principle of law that genuine claim of any person can not be rejected on account of mere technical ground. Therefore, in the aforesaid circumstances, in my view, the impugned order can not sustain in the eye of law and accordingly, this revision petition is allowed and impugned order dated 13.6.2012 passed by the



learned Tribunal in Reference case no. 123/2010 is set aside and accordingly, delay in filing the aforesaid Reference case no. 123/2010 is condoned and matter is remitted back to the concerned Tribunal for deciding the matter afresh.

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(Hemant Kumar Srivastava,J)

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