

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2102 of 2016

In

First Appeal No. 431 of 1994

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Ram Chandra Rai		Petitioner/s
	Versus	
Dharmnath Rai & Ors.		Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**
ORAL ORDER

6 16-05-2017 Heard the learned counsel, Mr. Dhananjay Kumar, for the petitioner and the learned counsel, Md. Waliur Rehmna, for the opposite party No.4 and 7 and the learned counsel, Mr. Arvind Kumar Sinha, for opposite party No.1, 2, 3 and 5.

The learned counsel, Mr. Dhananjay Kumar, for the petitioner submitted that the First Appeal has been dismissed for non-compliance of the peremptory order. The peremptory order could not be complied with within the time because the appellant had no information and moreover after dismissal of the First Appeal for non-compliance of the preemprory order, none of the Advocate informed the appellant, and therefore, the MJC application could not be filed within the limitation prescribed under the Limitation Act.

On the other hand, the learned counsels appearing on behalf of the opposite parties submitted that in fact it is the negligence of the Advocates who did not inform the petitioners but the delay is in only



one year or two years but is about 7 years and for 7 years, the petitioner did not care to come to High Court for getting information regarding the First Appeal which is also the negligent of the appellant.

In view of the aforesaid submission of the learned counsels for the parties, the delay in filing the MJC application is hereby condoned. The interlocutory application, i.e., limitation application is allowed and this MJC application is also allowed subject to payment of cost of Rs.2000/- to be paid by the petitioner to the opposite parties within one week after summer vacation. The receipt shall be filed by the Advocates showing receipt of the cost.

The learned counsels for both the sets of the opposite party submitted that they will file Vakalatnama on behalf of the opposite parties who are respondent in the First Appeal in the first Appeal within one week after summer vacation.

If Vakalatnama is filed by the respondents of the First Appeal who are opposite parties in this MJC application within the aforesaid period, the First Appeal may be listed under the heading for office note with a report that whether the First Appeal is ready for hearing or not.

The First Appeal section shall call for the lower Court record for reference in the First Appeal.

(Mungeshwar Sahoo, J)

Sanjeev/-

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