

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 162 of 2017

1. Digeshwar Das S/o Late Shri Dehar Das Vaishnav, aged about 45 years, R/o Village/ Post Chhati, Tahsil & District Dhamtari, Chhattisgarh(Appellant)

---- Applicant

Versus

1. Jitendra Das S/o Late Ramkrishna Das, aged about 41 years, R/o Village/ Post Chhati, Tahsil/ District Dhamtari, Chhattisgarh, Presently Village and Post Khola, through Basant Chandrawanshi, Tahsil Abhanpur, District Raipur, Chhattisgarh
2. Roshan Das S/o Late Ramkrishna Das, aged about 33 years, R/o Village/ Post Chhati, Tahsil/ District Dhamtari, Chhattisgarh, Presently Village and Post Khola, through Basant Chandrawanshi, Tahsil Abhanpur, District Raipur, Chhattisgarh(Plaintiffs)
3. State of Chhattisgarh, through the Collector, Dhamtari, Chhattisgarh(Formal party)

---- Respondents

For Applicant – Shri Somnath Verma, Advocate.

For Respondent No.3 – Shri Om P. Sahu, Govt. Advocate, on advance copy.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

27-02-2017

1. Heard on I.A.No.1/2017 for condonation of delay in filing the instant MCC as the instant MCC has been preferred after 28 days of its limitation.
2. Learned counsel for the applicant would submit that as respondent No.1 and respondent No.2 were not noticed in MA No.89/2016 and the matter was dismissed vide peremptory order dated 30-11-2016, with this, to decide the instant MCC issuance of notice to respondent No.1 and respondent No.2 is not required, hence, the matter may be heard.
3. On due consideration, for the reasons mentioned in I.A.No.1/2017 and the argument advanced, this Court is of the considered view that the applicant has satisfactorily explained the delay of 28 days in filing the instant MCC .
4. Consequently, I.A.No.1/2017 is hereby allowed and the delay in filing the instant MCC of 28 days is condoned.

5. Also heard the matter finally.

6. Learned counsel for the applicant would submit that in compliance of the order dated 30-11-2016 they had removed the default by paying the P.F. as required and directed, though if for any bonafide cause the said default in MA No.89/2016 is not removed, they are ready to remove the default within a week from now. With this, they may be permitted to cure the default and the said MA may be restored to its original number.

7. On due consideration, the instant MCC is hereby allowed. The applicant is directed to remove the default in said MA No.89/2016 within a week from now if not cured as submitted. If the default is cured in the said MA within a week from now, the said MA is directed to be restored to its original number.

8. With the above pre-condition the MCC is hereby allowed and disposed of.

9. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE