

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 319 of 2017**

(Arising out of judgment/order dated 2.1.2017 in Civil Suit No.1B/2015
of the learned District Judge, Kondagaon)

- Assistant Manager, Bamboo Craft (Training Center) Narayanpur
District Narayanpur, Chhattisgarh

---- Appellant

Versus

1. Sivan Bai Korram W/o Late Anil Korram, Aged About 22 Years
R/o Village Jondrapadar, Tahsil And District Kondagaon,
Chhattisgarh
2. Chief Engineer, Chhattisgarh State Electricity Divisional
Distribution Company, Jagdalpur, District Jagdalpur, Chhattisgarh
3. Executive Engineer, Chhattisgarh State Electricity Divisional
Distribution Company Narayanpur, District Narayanpur,
Chhattisgarh
4. Collector, Narayanpur, District Narayanpur, Chhattisgarh

---- Respondent

For Appellant : Shri Vivek Kumar Tripathi, Advocate.
For Respondent No.1 : Shri Vishnu Koshta, Advocate.
For Respondents 2 & 3 : Shri Raja Sharma, Advocate.
For Respondent No.4 : Shri Ramakant Mishra, Deputy A.G.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****06/10/2017**

1. This appeal would challenge the judgment and decree passed by the

trial Court allowing compensation of Rs.3,34,000/- to the plaintiff on account of death of Anil Kurram, who was engaged in building repairing work in the appellant's premises on 17.6.2012.

2. The appeal is barred by 81 days.
3. In support of the application for condonation of delay, it is argued that one B.K. Sahu was working as Assistant Manager at the relevant point of time, however, since he was transferred, the present Assistant Manager was not aware about the pending litigation nor the lawyer engaged by the appellant informed him about the decree passed by the trial Court. The appellant became aware about the decree on 12.6.2017 when the notice for execution of the decree was served.
4. Shri Koshta, learned counsel for the respondent/plaintiff would oppose the application. He would submit that the appellant has not demonstrated the sufficient cause and explanation for each day's delay, therefore, the delay in filing the appeal does not deserve to be condoned.
5. Perusal of the judgment and decree and the application under Section 5 of the Limitation Act would reveal that the judgment was delivered on 2.1.2017 which, according to the appellant, came to its notice on 12.6.2017. There is no averment in the application as to on what date Shri B.K. Sahu was transferred or the date on which the present Assistant Manager joined at the relevant place. Similarly, neither

affidavit of the previous Assistant Manager nor the counsel has been filed in support of the plea that they failed to inform the present Assistant Manager about the impugned judgment and decree. Copy of the note sheet contained in the office of the appellant has also not been filed to demonstrate that there was no communication from any corner bringing it to the notice of the present Assistant Manager about the present judgment and decree. The affidavit filed in support of the application would aver as if the deponent himself has preferred the appeal whereas the deponent is the Manager of the CG Hastshilp Vikas Board, Narayanpur, District Narayanpur in whose name the appeal has been preferred.

6. Considering the entire fact situation of the case, this Court is not satisfied that the explanation offered for condonation of delay is sufficient enough for condoning the delay. Therefore, delay in filing the appeal does not deserve to be condoned.
7. Accordingly, IA No.1/2017, application for condonation of delay in filing the appeal is dismissed.
8. Consequently, the Appeal is also dismissed being barred by limitation.

Sd/-
Judge
(Prashant Kumar Mishra)