

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 871 of 2016**

(Arising out of order dated 9-9-2009 passed in MA No.1787 of 1999)

1. South Eastern Coalfields Limited Gevra Area Through Its Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur, District Bilaspur, Chhattisgarh

---- Applicant

Versus

1. M/s A.V.J. (Ex-Service Man) Associates (P) Ltd. H-405, Somvihar, R.K. Puram, New Delhi, PIN 110022
2. Col. J.P. Yadav, Managing Director, M/s A.V.J. (Ex-Service Man) Associates (P) Ltd. H-405, Somvihar, R.K. Puram, New Delhi, PIN 110022

---- Respondent

For Applicant
For Respondent

Shri Vivek Chopda, Advocate
None

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Arvind Singh Chandel

Order On Board**18/09/2017**

1. This MCC is for restoration of MA No.1787 of 1999, which was dismissed for want of prosecution on 9-9-2009. The MCC being barred by 2613 days, a separate application for condonation of delay in filing the MCC has been filed as I.A.No.1.
2. Heard learned counsel for the applicant on I.A.No.1.

3. It is argued that Shri Praveen Das, Advocate, earlier engaged counsel in MA No.1787 of 1999, did not appear on 9-9-2009 nor did he inform the applicant about the order passed by this Court in the said appeal. Shri Das withdrew from the Panel of Lawyers of SECL in 2016. After his withdrawal from Panel of Lawyers, MA No.1787 of 1999 was entrusted to Shri Vinod Deshmukh, Advocate, with instruction to enquire about the status of the matter. Shri Deshmukh made an enquiry on 29-7-2016 on which he came to know that the matter has been dismissed for want of prosecution on 9-9-2009. Certified copy of the said order was applied and could be received on 2-8-2016 and thereafter, the present MCC has been filed on 18-11-2016.
4. In the above factual backdrop, it is put forth that the appellant being not aware about dismissal of appeal, as the Lawyer engaged by it did not inform about the dismissal, the delay in filing the MCC is *bona fide*.
5. We have perused the record particularly the contents of the application seeking condonation of delay. The applicant is not a rustic innocent villager, but is one of the Mini Ratna Company of the Government of India, who has a separate personnel and Law Department, who takes care of the entire litigation filed by or against the company. If there was no information from the Lawyer, it was the

duty of the Law Officer of the company to keep track of the pending cases in the High Court.

6. The appeal itself was preferred in the erstwhile High Court of Madhya Pradesh in 1999. Thus, on the date of dismissal for want of prosecution, the appeal was already pending for about 10 years and thereafter, the application for condonation of delay has been filed after about 7 years. Even after receipt of certified copy of the order dated 9-9-2009 on 2-8-2016, the restoration application was not filed within 30 days therefrom, but it was filed after more than 90 days i.e. on 18-11-2016.
7. In view of the above, in our considered view, the applicant has not made out any ground to satisfactorily explain the delay in filing the MCC. Accordingly, the application (I.A.No.1) for condonation of delay in filing the MCC deserves to be and is hereby dismissed.
8. Consequently, the MCC is also dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Arvind Singh Chandel

Gowri