

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 41 of 2017**

- Kartik Ram S/o Vishwanath Acharya, Aged About 49 Years R/o Panjari Plot, Chakardhar Nagar, Tahsil & Distt. Raigarh (Chhattisgarh), Civil And Revenue Distt. Raigarh, (Chhattisgarh)

----Appellant**Versus**

1. Manager, Jute Rice Mill Raigarh, Tahsil & Distt Raigarh, (Chhattisgarh)
2. Industrial Court (Bench), Krishna Sadan, 16, H I G, Shankar Nagar, Raipur, (Chhattisgarh)

---- Respondents

For Appellant : Shri MK Sinha, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Anil Kumar Shukla

Order On Board By**Prashant Kumar Mishra, J****27/02/2017**

1. This appeal is posted for default.
2. It is argued that the order passed on 21.03.2006 in writ petition No.1676/2002 has been refused to be recalled in the impugned order dated 13.06.2011 in MCC No.306/2011, therefore, the writ appeal is maintainable.
3. Without entering to the maintainability part, we have heard learned counsel for the appellant and perused the papers to find out whether there is any substance in the writ appeal.
4. Admittedly, the writ petition was dismissed for want of prosecution on 21.03.2006, however, the appellant did not move application for restoration

for 1838 days. The reason assigned for explaining the delay and laches is that the counsel overlooked the cause-list of the day when it was listed for hearing.

5. Be that as it may, the appellant had filed the writ petition in the year 2002 which was dismissed for want of prosecution in March, 2006, yet he did not keep track of his case nor did he remain vigilant to ascertain from the counsel as to the status or fate of his case. Had he been vigilant, he would have come to know about the dismissal for want of prosecution within reasonable time. Therefore, it is not only a case of mistake of lawyer but it is coupled with the negligence of the appellant also. Learned Single Judge has examined the matter and refused to restore the petition in exercise of its judicial discretion, therefore, while sitting in writ appeal, we cannot substitute the judicial discretion exercised by the learned Single Judge to substitute the same when there is absence of substantive ground to satisfactorily explain the delay and laches with which the restoration application suffered.
6. There is no substance in this appeal. It fails and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Anil Kumar Shukla