

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 243 of 2017

1. Smt. Sangeeta Bai Wd/o Late Rakesh Sonkar, Aged About 24 Years R/o Village Ramgarh (Mungeli), P.S. Mungeli, Tehsil and District Mungeli, Chhattisgarh
2. Rajesh Kumar S/o Late Rakesh Sonkar, Aged About 5 Years Minor Through Natural Guardian, Appellant No.1 Smt. Sangeeta Bai, R/o Village Ramgarh (Mungeli), P.S. Mungeli, Tehsil and District Mungeli, Chhattisgarh
3. Ku. Divya D/o Rakesh Sonkar, Aged About 3 Years Minor Through Natural Guardian, Appellant No.1 Smt. Sangeeta Bai, R/o Village Ramgarh (Mungeli), P.S. Mungeli, Tehsil and District Mungeli, Chhattisgarh
4. Munna Lal Sonkar S/o Late Silau, Aged About 60 Years R/o Village Ramgarh (Mungeli), P.S. Mungeli, Tehsil and District Mungeli, Chhattisgarh
5. Smt. Guddi Bai W/o Munna Lal Sonkar, Aged About 55 Years R/o Village Ramgarh (Mungeli), P.S. Mungeli, Tehsil and District Mungeli, Chhattisgarh(Claimants)

---- Applicants

Versus

1. Raghvendra Gupta S/o Shri Ramadhar Gupta, Aged About 42 Years R/o Ward No.9, Kawardha, P.S. and Tehsil Kawardha, Civil and Revenue District Kabirdham, Chhattisgarh(Owner)
2. Amzad Khan S/o Shri Nasir Khan, Aged About 41 Years R/o Daupara, Near Rest House, Mungeli, P.S., Tehsil and Distt. Mungeli, Chhattisgarh(Driver)
3. The Oriental Insurance Company Limited, Through Branch Manager, Branch Office- Chhabda Plaza, 2nd Floor, Naveen Bazar, Above Maharashtra Bank, Tehsil Kawardha Civil and Revenue District Kabirdham, Chhattisgarh(Insurance Company)

---- Respondents

For Applicants – Shri Keshav Dewangan, Advocate.

For Respondents – None, not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

28-03-2017

1. Heard on I.A.No.1/2017 under Section 5 of the Limitation Act for condonation of delay in filing the instant MCC as the instant MCC has been preferred after 53 days of its limitation.
2. As the respondents were not noticed in the MAC No.1454/2016 and the matter was with some default pointed out by the Registry, notices to the

respondents are not required in the present matter.

3. On due consideration, for the reasons mentioned in I.A.No.1/2017 and the argument advanced on behalf of the applicants, this Court is of the considered view that the applicants have satisfactorily explained the delay of 53 days in filing the instant MCC. Consequently, I.A.No.1/2017 is hereby allowed and the delay of 53 days in filing the instant MCC is hereby condoned.

4. Also heard the matter finally.

5. Learned counsel for the applicants would submit that though the default pointed out by the Registry was removed within its limitation as per order dated 03-11-2016, but when the Registry examined the said good for the default, he observed that the default was not cured as expected. Learned counsel for the applicants would further submit that if permitted he is ready to remove the default within a week from now and the said MAC No.1454/2016 dismissed on a peremptory order dated 03-11-2016 may be restored for hearing.

6. On due consideration, the instant MCC is hereby allowed. The applicants are directed to remove the default pointed out by the Registry in said MAC No.1454/2016 within a week from now, with this pre-condition the MAC No.1454/2016 dismissed on a peremptory order dated 03-11-2016 is restored to its original number. It is further observed that if the default is not removed within a week from now, the order passed in the instant MCC shall lose its efficacy. With this pre-condition, the MCC is allowed.

7. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE