

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 323 of 2017**

Smt. Basanti Bai Wd/o Late Devnath Sahu, Aged About 60 Years R/o Kurmipara, Purani Basti, Mahasamund, Police Station & Post Mahasamund, District Mahasamund, Chhattisgarh

---- Applicant/appellant

Versus

Kamal Kishore S/o Dhaniram Tamboli, Aged About 48 Years R/o Kurmipara, Purani Basti, Mahasamund, Police Station & Post Mahasamund, District Mahasamund, Chhattisgarh

Smt. Beetan Bai, Wd/o. Devsingh Tamboli (Died issueless)

---- Respondent

For applicant	Mr. Manoj Paranjpe with Mr. Vikram Dixit, Adv.
For Respondent/State	Mr. Rishikant Mahobia, Adv. for respondent.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

3-7-2017

1. Heard on I.A. No. 1/2017 application under Section 5 of the Limitation Act, 1963 for condonation of delay in filing the instant MCC as the same has been filed after 581 days of its limitation.
2. Learned counsel for the applicant submits that the applicant is an illiterate lady residing in a remote area. Her husband was looking after the matter and was in touch with the counsel. The husband of the applicant was suffering from prostate cancer and was hospitalized, thereafter he died on 7-10-2005. With this the applicant was not in a position to file instant MCC for restoration of the SA No. 62/2005 as the said SA was dismissed on a peremptory order whereby the applicant was directed to remove the default within stipulated time. Hence it is submitted that the delay may be condoned. MCC may be allowed and the said SA may be restored to its original number.
3. Learned counsel for the respondents opposes the arguments.
4. SA No. 62/2005 was dismissed on a peremptory order dated 23-7-

2015 whereby the applicant/appellant was directed to remove the default within a week from now failing which this second appeal shall stand dismissed without further reference to the bench. On the said date, the appellant was not even represented. No document has been filed regarding ailment, death of the husband of the applicant.

5. Instant MCC has been preferred after 581 days. On due consideration, I am not inclined to condone the delay of 581 days in filing the instant MCC. Consequently, I.A. No. 1/2017 is hereby dismissed. As a result, instant MCC is also dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge