

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 609 of 2012**

1. Harkeshwar Prasad Gupta S/o Badri Prasad Bani, R/o Juna, Bilaspur (C.G.)
2. Kamla Devi Gupta (Died On 23-11-2007) W/o Late Harkeshwar Prasad Gupta,
3. Shyam Kumar Gupta S/o Harkeshwar Prasad Gupta,
4. Amrit Raj Gupta S/o Harkeshwar Prasad Gupta, All R/o Juna Bilaspur, Tah. & Distt. Bilaspur (C.G.)

---- Applicants**Versus**

1. Addl. Collector, Bilaspur
2. Sub Divisional Officer Bilaspur, Distt. Bilaspur (C.G.)
3. Sudhara Bai W/o Awadh Ram Kewat, Aged about 70 yrs. R/o Village- Lagra, Tah. & Distt. Bilaspur (C.G.)

---- Respondents

For Applicants	:	Shri V.K. Sharma, Advocate
For Respondent No.1 & 2	:	Shri Satish Gupta, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

02/01/2017

1. Heard on I.A.No.1/2012 for condonation of delay as the instant MCC has been preferred after 238 days of its limitation.
2. Learned counsel for the applicants would submit that W.P. No. 2318/1992 was dismissed as the LRs of the petitioners i.e. present applicants were not represented. With this, the Court vide order dated 11.10.2011 dismissed the said W.P. No. 2318/1992 and also dismissed the interim application. The delay is bonafide and unintentional, hence, the same may be condoned, the MCC may be allowed and the petition may be restored to its original number.
3. Perused the impugned order dated 11.10.2011 and also the contents of the petition. It appears that the said Misc. Petition was pending since 1992 filed by the

petitioner- Harkeshwar Prasad Gupta under Article 226/227 of the Constitution of India and the application has been filed on behalf of the petitioners for substitution of their names as legal heirs on 11.4.2005.

4. Earlier, the applicants have filed MCC No. 28/2012 and vide order dated 17.4.2012, the same was dismissed as withdrawn as the petitioners prayed for liberty to file corrected and amended fresh petition. Thereafter, the instant MCC has been preferred. In the entire MCC and I.A.No.1/2012, it is nowhere mentioned the date, month and year of death of Harkeshwar Prasad Gupta. Also it is very surprising that application for substitution of the LRs was pending before this Court in the said Misc. Petition since 11.4.2005.

5. Upon due consideration of the entire material available on the record, the present applicants have failed to demonstrate the satisfactory cause for filing the MCC by 238 days of delay.

6. In the considered opinion of this Court, I.A.No.1/2012 is sans substance, hence, the same is dismissed.

7. Consequently, the MCC is also dismissed as barred by 238 days.

Sd/

(Chandra Bhushan Bajpai)
Judge