

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 348 of 2015**

- Amit Singh Parihar S/o Jaipal Singh Parihar Aged About 38 Years Caste Kshatriya, R/o Village Semra, Tahsil - Navagarh, District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. Sanjeev Guha S/o Julal Chand Guha Aged About 37 Years R/o Village Janjgir, District Janjgir Champa Chhattisgarh
2. Vijay Soni S/o Subhash Soni Aged About 34 Years R/o Village Janjgir, District Janjgir Champa Chhattisgarh
3. State of Chhattisgarh Through Collector Janjgir District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	:	Shri Sushobhit Singh, Advocate
For State/Respondents No.3	:	Shri R. K. Gupta, Deputy Advocate General

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Order on Board****29.01.2018**

1. This writ petition is filed under Article 227 of the Constitution of India challenging the dismissal of an appeal against the refusal to condone delay and to restore the suit dismissed for default.
2. Heard the learned Counsel for the Petitioner.
3. From the proceedings, it can be seen that though the delay that is attributed is more than 1½ years, the trial of the suit could have been proceeded with without delay because the parties had tendered proof affidavit etc. I have taken note of the contentions. The suit is in relation to a parcel of immovable property. The rival contentions are already pleaded and the parties were prepared to go for trial. Obviously, therefore, even if the delay was sizeable, the application for condonation of delay and the application for restoration of

suit could have been allowed, at least on terms, since that would have secure the ends of justice. On the whole, I am satisfied that this is an abundantly fit case where this Court would exercise jurisdiction under Article 227 of the Constitution, thereby enabling the trial of issues as between the parties in the suit.

4. In the result, this writ petition under Article 227 of the Constitution is allowed setting aside the impugned orders of the appellate Court and the trial Court and condoning delay in filing the application for restoration and also ordering restoration of the suit to file on the condition that the appellant pays the Respondents 1 and 2 through the learned counsel appearing for them in this writ petition an amount of Rs.15,000/- as cost within a period of three weeks from today. The writ petition is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice