

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 750 of 2016**

- Smt. Nilima Mukherjee W/o Late Swapan Mukherjee, Aged About 40 Years R/o Chirmiri, Police Station- Chirmiri, District- Korea, Chhattisgarh (Wrongly Mentioned M.P. In Certified Copy) (Plaintiff)

---- **Petitioner****Versus**

1. Jila Sahkari Khrishi Avam Gramin Vikas Bank Maryadit Ambikapur Through Branch Manager Manendragarh, District Korea, Chhattisgarh
2. Sales Officer, Jila Sahkari Krishi Avam Gramin Vikas Bank Maryadit Ambikapur Through Branch Manager Manendragarh, District Korea, Chhattisgarh
3. Assistant Registrar Officer Sahkari Samiti Baikunthpur, District Korea, Chhattisgarh

---- **Respondent**

For Petitioner
For Respondent

Mr. Punit Ruparel, Advocate
Mr. Sunil Tripathi, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****5/1/2018**

1. Heard.
2. FA No.153/2011 was preferred on 20.1.2011, in which, proper and adequate court fee was not paid by the applicant/appellant. The appeal was posted on 24.6.2011 for orders on default, however, none appeared for the appellant on the said date, therefore, it was dismissed for want of prosecution on 24.6.2011.

3. This MCC has been preferred on 28.9.2016 for restoration of the said First Appeal with delay of about 1851 days.
4. Learned counsel for the applicant would submit that the applicant is a poor widow, therefore, the delay should be condoned.
5. Mr. Tripathi, learned counsel for the respondents, would oppose the prayer for restoration on submission that the applicant was careless and negligent in pursuing the appeal, therefore, no case for restoration is made out.
6. Ordinarily, restoration application is allowed when it is preferred within reasonable time. However, the present is a case where the delay is enormous being of 1851 days. Even the First Appeal was not properly constituted as adequate court fee was not paid. Neither the appellant nor her counsel appeared on the date when the matter was posted in default.
7. In the considered view of this Court, the delay in filing the MCC is not properly explained, therefore, no case for restoration of FA No.153 of 2011 is made out.
8. IA No.01, an application for condonation of delay in filing the MCC, is accordingly dismissed.
9. Consequently, the MCC is also dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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