

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SECOND APPEAL No. 510 of 2018**

1. Mohan, S/o Rajna, aged about 48 years, Caste – Jaiswal, Occupation – Agriculture, R/o Village Marka, P.H. No. 14/29, Tahsil Kawardha, District Kabirdham (C.G.)
--- Appellant (Defendant No. 1)

Versus

1. Lahar, S/o Rajna, aged about 55 years, Occupation – Agriculture, R/o Village Kharijiti, P.H. No. 12, Ra.Ni.Ma. Kawardha, District Kabirdham (C.G.).....[Plaintiff No. 1]
2. Jahar, S/o Rajna Jaiswal, aged about 52 years, Occupation – Agriculture, R/o Village Marka, P. H. No. 14, Tahsil Kawardha, District Kabirdham (C.G.).....[Plaintiff No. 2]
3. Khorbahra, S/o Rajna, aged about 58 years, Occupation – Agriculture, R/o Marka, Thana- Pipariya, Tahsil – Kawardha, District Kabirdham (C.G.)..... [Defendant No. 2]
4. Chaitibai, D/o Rajna, W/o Kaliram Jaiswal, aged about 62 years, Occupation- Homemaker, R/o Village Bitkuli, Tahsil Kawardha, District Kabirdham (C.G.).....[Defendant No. 3]
5. State of Chhattisgarh, through District Magistrate, Kawardha, District Kabirdham (C.G.).....[Defendant No. 4] ---- Respondents

For Appellant	:	Shri Malay Shrivastava, Advocate.
For Respondent No. 5/ State	:	Shri Ashish Surana, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****04/09/18**

1. Heard on application for condonation of delay in filing this second appeal.
2. The first appeal preferred by the defendant No. 1 was dismissed by the first Appellate Court on 22.10.2008 and this instant second appeal has been preferred on 24.08.2018 i.e. after a lapse of more than nine years and

it is barred by 3489 days. The reasons assigned by the appellant is that he is indigent person living in a remote village and he has no knowledge or practice of the process of law.

3. The first appeal preferred by the appellant / defendant No. 1 was dismissed by the first Appellate Court on 22.10.2008 in the presence of counsel for the parties as appellant was duly represented through his counsel. The appellant herein applied for the certified copy of judgment and decree on 09.02.2018 after more than nine years and copy was delivered to him on 12.02.2018 and this appeal was preferred after six months on 14.08.2018 before this Court. In the application for condonation of delay there is no explanation of inordinate delay of more than nine years in applying and obtaining the certified copy of judgment and decree except to say that he is a poor person and living in remote village specially when he was duly assisted in appeal by learned counsel. There is no explanation in shape of sufficient cause for inordinate delay of nine years. The appellant applied and obtained certified copy of the judgment and decree on 12.02.2018 and again he took six months time in preferring appeal with no reason as to why he could not prefer appeal immediately thereafter and also there is no averment in the application on account of lack of funds for legal expenses for which he could not prefer appeal right in time. The application as framed and filed is cryptic. No cause much less sufficient cause has been shown to explain the inordinate delay of more than nine years. True it is that sufficient cause has to be construed liberally, but in the instant case no cause has been shown to condone the delay of more than nine years. The cause shown cannot be said to be bonafide and therefore, it cannot be

condoned.

4. Accordingly, the application for condonation of delay stands rejected and consequently, the second appeal is also dismissed as barred by limitation. No cost(s).

SD/-

(Sanjay K. Agrawal)
Judge