

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10310 of 2019**

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Usha Kumari alias Usha Devi aged about 40 years, Female, W/o Raj Kumar Prasad, Resident of Gurudwara Road, Fatehganj, P.O.-P.S. Gaya, District-Gaya.

... .. Petitioner

Versus

1. The Regional Manager, State Bank of India, Antaghat, Patna.
2. The Branch Manager, State Bank of India, A.P. Colony, Gaya.
3. The Authorised officer, State Bank of India, A.P. Colony, Gaya
4. Anuj Kumar S/o Indradeo Prasad @ Babban Singh Resident of Mohalla-Gurudwara Road, P.S.-Kotwali, Dist.-Gaya.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Dharmendra Kr. Sinha, Advocate  
For the Respondent/s : Mr.Santosh Kr. Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      02-09-2019                      Heard learned counsel for the petitioner and  
  
learned counsel representing the Bank.

It is an admitted fact in the present case that the possession notice dated 04.06.2011 was challenged by the present petitioner in a writ application before this court which came to be disposed off on 08.03.2016. The petitioner thereafter maintained a complete silence, did not pursue her remedy and it is only on 05.03.2018 the present SARFAESI Application was filed. In this regard, the consideration given by the Debts Recovery Tribunal, Patna may be found in paragraph 10, 11 & 12 of the



impugned order which are reproduced hereunder for ready reference:

"10. Furthermore, in the present case, the applicant has challenged the possession notice dated 4.6.2011 and also challenged the letter dated 3.2.2018, but Id. Counsel of respondent bank has denied to have issued the letter dated 3.2.2018, by the respondent bank. Further, the applicant has challenged the possession notice dated 4.6.2011, before the Hon'ble High Court of Patna, by filing CWJC No. 14782 of 2011 and vide order dated 8.3.2016, the Hon'ble High Court of Patna has dismissed the said writ, as withdrawn by the applicant. Meaning thereby, the applicant was having full knowledge about the possession notice dated 4.6.2011.

11. In view of the above discussions, it appears that the applicant has deliberately avoided the SARFAESI Actions of the respondent bank and after lapse of more than one and half years from the date of order of the Hon'ble High Court of Patna dated 8.3.2016, has filed the SARFAESI Application on 5.3.2018 with the limitation petition to condone the delay, but no any sufficient cause/explanation of delay has been explained,



by the applicant.

12. The Hon'ble Supreme Court of India in the case of Basawaraj & Anr. Versus The Spl. Land Acquisition Officer, reported in [2013] 14 SCC 811 has held as under-

The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."



This court is of the considered opinion that the statute of limitation is a statute of repose and confidence and a litigant cannot be allowed to agitate an issue so as to keep it pending *ad-infinitum*.

In the present case, if the Debts Recovery Tribunal has found that no cogent muchless sufficient reason have been shown for purpose of condonation of delay, this court finds no reason to interfere with the impugned order.

The Writ Application has, thus, no merit. It is dismissed accordingly.

**(Rajeev Ranjan Prasad, J)**

Rajeev/-

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