

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.621 of 2016

Mostt. Radha Devi @ Radha, Wife of Late Dukha Roy, Resident of Nayatola
Line Bazar, P.S. K. Hat (Sahayak), District Purnea.

... .. Plaintiff – Appellant - Appellant

Versus

Gulabi Devi, Wife of Raman Roy, Resident of Naya Tola, Line Bazar, P.S. K.
Hat (Sahayak), District Purnea.

... .. Defendant – Respondent - Respondent

Appearance :

For the Appellant	:	Mr. Ajit Ranjan Kumar, Advocate
For the Respondent	:	Mr. Jagdish Prasad Bhagat, Advocate Mr. Bijendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 26-06-2019 Heard the learned counsel for the appellant on I.A.
No.1266 of 2017 and the learned counsel for the respondent.

I.A. No.1266 of 2017 is filed for condonation of delay
of 1 year 3 months and 25 days in filing the memo of appeal.

Learned counsel for the appellant submits that the
appellant is a poor lady and, therefore, she could not be able to
file the appeal in time. When she managed the money, she came
to her lawyer, Shri Ajit Ranjan Kumar on 18.12.2016 and after
preparation of memo of appeal, the appeal was filed on
22.12.2016 but it appears that the appellant was the plaintiff in
the suit. Appellant filed the suit for eviction of the suit premises
on the ground of default of payment of rent as well as on the
ground of personal necessity. The suit was dismissed as the
plaintiff failed to prove the relationship of landlord and tenant



between the plaintiff and the defendant. The plaintiff filed Eviction Appeal No.07/2014 and the appeal was also dismissed. There is a concurrent finding of fact that the plaintiff-appellant failed to prove the relationship of landlord and tenant. It appears that the appellant simply stated that since she is poor, she could not arrange money in presenting the appeal in time but it appears that the plaintiff-appellant herself filed the suit and she did not take any recourse for help from the District Legal Services Authority. Similarly she did not take any help in filing the appeal before the District Judge.

In this view of the fact, I find that the appellant has not satisfactorily explained the delay of 1 year 3 months and 25 days in presenting the appeal.

Accordingly, I.A. No.1266 of 2017 is dismissed. Consequently, the present second appeal is also dismissed as the same is hopelessly barred by limitation.

(Prabhat Kumar Jha, J)

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