

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No. 302 of 2016

1. Ashutosh Nr. Choudhary, S/o Late Raghbendra Narayan Choudhary
2. Santosh Kr. Choudhary, son of Late Raghbendra Narayan Choudhary
3. Smt. Padma Choudhary, W/o Raghbendra Narayan Choudhary
4. Smt. Malti Devi, D/o Raghbendra Narayan Choudhary
All residents of Mohalla - Madhubani (European Quarter), P.S. K.Hat,
District. Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Collector, Purnea
2. The Collector, Purnea.
3. The Khas Mahal Officer, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumari Ritambhara,Adv
For the Respondent/s : Mr.Abbas Haider- SC6, Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 11-07-2019

Heard the parties.

2. This civil revision application has been filed for setting aside the order dated 09.09.2016 passed in Misc. Case No. 08 of 2012 passed by Sub-Judge-6th, Purnea by which application for restoration of Title Suit was dismissed. Title Suit No. 223 of 1992 was dismissed for non-prosecution by Sub-Judge-4th, Purnea.

3. Plaintiff filed a Title Suit No. 223 of 1992 for declaration of his raiyati rights over the suit land which was placed before the learned Sub-Judge-4th for hearing and



witnesses were being examined on behalf of plaintiff and next date of hearing was 25.05.2012 but on said date when the matter was called out neither plaintiff nor defendant appeared and the suit was dismissed for non-appearance of plaintiff and for restoration of which an application was filed giving rise to Misc. Case No. 08 of 2012 explaining the reasons for non-appearance on 25.05.2012 when the suit was called for hearing.

4. Plaintiff had also filed an application for condoning the delay of 8 days in filing the miscellaneous Case for restoration of title suit along with medical certificate of the Advocate clerk, Ashutosh Narayan Choudhary, who was examined as a witness in the miscellaneous Case and he deposed that he was advised for bed-rest from 23.04.2012 to 25.05.2012 as such, he could not make pairvi and the medical certificate was marked as Exhibit-1 in miscellaneous Case. However, the court below by order dated 09.09.2016 dismissed the miscellaneous case for the reasons that no sufficient cause has been shown for delay in filing the miscellaneous case. The delay in filing miscellaneous case was of 08 (eight) days.

5. After hearing the parties and perusing the order as impugned, this court is satisfied that plaintiff/petitioner had shown sufficient reasons for condoning delay of 08 (eight) days



in filing Misc. Case No. 08 of 2012 for restoration of Title Suit No. 223 of 1992. Plaintiff/petitioner has also shown bonafide reasons for being not remaining present on 25.05.2012 when T.S. No. 223 of 1992 was called out and was dismissed for non-prosecution.

6. For the reasons as stated above order dated 09.09.2016 passed in Misc. Case No. 8 of 2012 passed by Sub-Judge-6th, Purnea as well as order dated 25.05.2012 passed in Title Suit No. 223 of 1992 dismissing suit of non-prosecution is set aside and Title Suit No. 223 of 1992 is restored to its original file.

7. The Civil Revision petition is allowed.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2019
Transmission Date	NA

