

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3601 of 2017

In
Miscellaneous Appeal No.260 of 2011

=====

Lalbabu Sah & Anr

... .. Petitioner/s

Versus

Bhagawan Mishra & Anr

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL

ORAL ORDER

4 09-01-2019

Re.: I.A. No. 8958 of 2018

Aforesaid I.A. has been filed for condonation of delay of 46 days in preferring this MJC petition with the case that the M.A. No. 260 of 2011 filed by the appellant was dismissed on 18.02.2015 for non-compliance of the complete peremptory order dated 11.02.2015 of this court but the appellant had no knowledge about aforesaid dismissal of the appeal earlier rather counsel for the appellant got knowledge of the same later on and then filed the aforesaid MJC for restoration of the appeal to its original file. There has been no intentional and deliberate delay in filing the aforesaid MJC petition rather aforesaid delay has been caused due to want to knowledge of the dismissal of the case.

Finding sufficient cause for the delay made in



preferring aforesaid MJC petition, the aforesaid delay is hereby condoned and aforesaid I.A. is accordingly allowed.

Re.: M.J.C. No. 3601 of 2017

The petitioner has filed the aforesaid MJC petition for restoration of the M.A. No. 260 of 2011 to its original file with the case that vide peremptory order dated 11.02.2015, the appellants were directed to file requisites for issuance of notice upon respondent nos.1 and 2 both but due to inadvertence, advocate clerk has filed requisites against respondent no.1 only and hence due to non-compliance of the complete order of the Court, the appeal was consequently dismissed on 18.02.2015. However the appellants have taken complete step in compliance of the aforesaid order of the Court. There has been no deliberate and intentional laches on behalf of the appellants in non-compliance of the aforesaid order of the Court.

In the facts and circumstances of the case and in the interest of justice, M.A. No.260 of 2011 is restored to its original file and the aforesaid MJC petition is allowed.

(Prakash Chandra Jaiswal, J)

mantreshwar/-

U		T	
---	--	---	--

