

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 75 of 2018

- Ramadhar Prasad(Dead) Through LR's- Basant Lal Gupta, S/o Late Shri Ramadhar Prasad Gupta, Aged About 52 Years, R/o Village Dumarkona, Tahsil-Bagicha, District-Jashpur, Chhattisgarh.

---- Petitioner

Versus

1. Jhumarsai (Dead) Through LR's- Mansusingh, S/o Late Shri Prabal Singh, Aged About 52 Years, Caste-Baghle Kshatri, Presently R/o Village-Khedar, Post-Nanhesar, Police-Station-Sanna, Tahsil-Bagicha, District-Jashpur, Chhattisgarh.
2. Jitan Singh, S/o Late Prabal Singh Presently R/o Bhadu, Post Bahora, Police Station Sanna, Tahsil-Bagicha, District-Jashpur Chhattisgarh. All are R/o Village-Dumarkona, Tahsil-Bagicha, District-Jashpur, Chhattisgarh.

---- Respondents

For petitioner	:	Mr. Sumit Singh Rathore, Advocate.
For respondents	:	Mr. Vikram Dixit, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

06/12/2019

1. The petition has been brought being aggrieved by the order dated 9.10.2.017 (Annexure P-2) passed by the Commissioner, Surguja Division, Surguja, Ambikapur, Chhattisgarh thereby dismissing the revision filed by the petitioner.
2. It submitted by the counsel for petitioner, that the Commissioner while passing the impugned order has considered on the application under Section 5 of Limitation Act and merely by mentioning that the revision has been filed with inordinate delay of 26 years & 7 months, has rejected the said application and consequent thereto dismissed the revision as barred by time. No consideration has been given by the learned Commissioner to the explanation given for the delay in filing the revision petition and also the time lapsed in other legal

proceedings. Therefore, it is prayed that the impugned order may be set aside and the matter may be remanded back to the Commissioner for reconsideration on the application of the petitioner for condonation of delay in preferring revision petition.

3. Learned counsel for respondents submits that he has no objection if prayer of the petitioner to remand back the case to the Commissioner, Surguja Division, Surguja is allowed.
4. On the perusal of the impugned order, it is found that there is mention about the delay in filing the revision petition only and there is no mention regarding the explanation offered for such delay, therefore, the order passed suffers from infirmity. The explanation given for the delay has to be taken into consideration before accepting or rejecting any application for condonation of delay. Therefore, on the basis of the request made by the petitioner and agreed by the counsel for the respondent, this petition is disposed off at the motion stage itself. The impugned order dated 9.10.2017 is set aside and the matter is remanded back to the Commissioner, Surguja Division, Surguja (CG) with a direction to reconsider the application for condonation of delay filed by the petitioner under Section 5 of the Limitation Act, on its own merits, in accordance with law.
5. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge