

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 615 of 2018

Krishna Mohan Dixit, S/o - Brijnath Dixit, Aged about 47 years, R/o- Raipur Naka, Behind Rail Line, Near Fish Pond, Ward No. 45/47, in the hut, constructed over the nazul land, Police Station- Padmanabhpur, Telsil & District- Durg (C.G.)

---- Petitioner

Versus

1. Jagdish Pal, S/o – Mohanlal, Aged about 44 years, R/o- Raipur Naka, Behind Rail Line, Near Fish Pond, Ward No. 45/47, in the hut, constructed over the nazul land, Police Station- Padmanabhpur, Telsil & District- Durg, (C.G.)

2. Raasid Khan, S/o – Sarifuddin, Aged about 45 years, R/o- Pratham Pata Quarter No. 104, M.I.G. Hudko Bhilai Police Station- Sector-6 Kotwali, Bhilai Nagar, Tehsil & District- Durg, (C.G.)

---- Respondents

For Petitioner : Shri Sandeep Yadav, Advocates.

For Respondents : Shri C.P. Soni & Mahendra Dubey, Advocates.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

03.04.2019

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.

2. For the reasons mentioned in the application, I am satisfied that sufficient cause has been shown for the delay, therefore, delay of 632 days in filing the petition is condoned.

3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.

4. This appeal is preferred against the order dated 29th March, 2016 passed by Sub-Divisional Magistrate, Durg (C.G.) in Criminal Case No. 2120/2005 filed under Section 133 of the Code of Criminal Procedure, 1973.
5. It appears from the order-sheet of the said Court that issues between the parties are not decided on merit and same was dismissed for want of prosecution, therefore, it requires re-consideration by the said Court and the said Court will decide the issues between the parties after hearing both sides.
6. Accordingly, the appeal is allowed. The case is remanded back to Court of the Sub-Divisional Magistrate, Durg (C.G.) for deciding the issues between the parties on merit afresh.
7. Both sides to appear before the Court Sub-Divisional Magistrate, Durg (C.G.) for further proceeding on 15th May, 2019.
8. Record of the Court of Sub-Divisional Officer, Durg (C.G.) be sent immediately.
9. In view of the above, in the instant petition stands disposed of.

Sd/-
(Ram Prasanna Sharma)
Judge