

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 344 of 2006**

Gourishankar, son of Shri Rampratap Teli, aged about 53 years,
Occupation Agriculturist, Resident of Village Devipur, Tahsil Surajpur,
District Surguja (C.G.)

---- Appellant/plaintiff

Versus

1. Pannalal, Son of Late Shri Ramkumar Teli, aged about 56 years,
Occupation Agriculturist
2. Satlal, Son of Late Shri Ramkumar Teli, aged about 45 years,
Occupation Agriculturist,
3. Mst. Kewlapati, Widow of Late Shri Bhagwan Das, aged about 35
years, Occupation House Wife

The respondents No. 1 to 3 are residents of Village Surajpur, Tahsil
Surajpur, District Surajpur (C.G.)

4. State of Chhattisgarh, Through :The Collector, Ambikapur, District
Surguja (C.G.)

---- Respondents/defendants.

For Appellant/plaintiff	:	Mr. V.K. Pandey, Advocate
For Respondent No. 4/State	:	Mr. Akash Pandey, PL

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/07/2019

(1) The substantial question of law involved, formulated and to be answered in this
plaintiff's second appeal states as under:

“Whether the lower appellate court was justified rejecting
the appeal only on the ground of limitation as the delay in
filing on the appeal is only 18 days ?”

(For the sake of convenience, parties would be referred hereinafter as per their status shown in the suit before the trial Court).

(2) The imperative facts required to be noticed for adjudication of this appeal are as under:

(2.1) The plaintiff's suit for declaration of title and permanent injunction was dismissed by the trial Court on 17.03.2004. Certified copy of the judgment & decree of the trial Court was received by the plaintiff on 24.03.2004. Thereafter, he preferred first appeal under Section 96 of the Code of Civil Procedure (henceforth "CPC") on 05.05.2004 along with application for condonation of delay of 18 days in filing the appeal.

(3) The First Appellate Court did not found favour with the application for condonation of delay and finding no sufficient cause for delay in filing the appeal, dismissed the application for condonation of delay and consequently appeal was also dismissed. Against which, this second appeal has been preferred by the appellant/plaintiff, in which substantial question of law formulated for consideration and which has been incorporated in the opening paragraph of the judgment.

(4) Learned Counsel appearing for the appellant, would submit that the finding recorded by the first appellate Court holding that sufficient cause has not been shown for condoning the delay in filing the first appeal is perverse and contrary to the record as the sufficient cause was shown in not filing the appeal in right in time.

(5) None for respondents though served.

(6) I have heard learned counsel appearing for the parties and perused the records of both the courts below including judgment and decree impugned with utmost circumspection.

(7) The Supreme Court in the matter of **N. Balakrishnan v. M. Krishnamurthy**¹ observed that the sufficient cause has to be construed liberally especially when the delay is not deliberate and *mala fide*. Paras 11 & 12 of the said decision are as under :

“11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the Courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim *interest reipublicae ut sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain Vs. Kuntal Kumari* {AIR 1969 SC 575} and *State of*

1 (1998) 7 SCC 123

West Bengal Vs. Administrator, Howrah Municipality {AIR 1972 SC 749}.”

(8) Reverting to the facts of the case and considering the reasons assigned by the plaintiff for the delay in filing the appeal that he remained busy in attending the marriage ceremony of his relative and, thereafter, he is said to have arranged the necessary expenses for filing the appeal. In the considered opinion of this Court, sufficient cause was shown by the plaintiff before the first appellate Court for condoning the delay in filing the appeal.

(9) As a sequel, the instant second appeal is allowed. The impugned order dated 22.04.2006 is set aside; delay in filing the first appeal is condoned; and restored the appeal bearing civil appeal No. 06-A/2006 to its original file of the Court of First Additional District Judge, Surajpur, District Surajpur, for hearing and disposal in accordance with law on its own merits, as expeditiously as possible, preferably within a period of three months from the date of receipt of record and certified copy of this order .

(10) Registry is directed to send back the record to the first appellate Court forthwith.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

