

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 798 of 2019

- Kanhaiya S/o Sitaram Kurmi, Aged About 50 Years, R/o Village Bhavtara, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh. (Defendant), District : Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

1. Jagannathi S/o Jethuram Nirmalkar, Aged About 64 Years, R/o Village - Bhavtara, R/o Village Bhavtara, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
2. State of Chhattisgarh Through the Collector, District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

-----Respondents

For Petitioner : Shri H.S. Patel, Advocate.

For Respondent No.2/State:Shri Roshan Dubey, Panel Lawyer.

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

11/11/2019

1. This petition has been brought challenging the order dated 15-02-2019 passed by the Court of Civil Judge Class-II Pamgarh, District Janjgir-Champa by closing the opportunity of the petitioner/defendant for filing written statement and also being aggrieved by the order dated 19-08-2019 by which an application for condonation of delay under Section 5 of the Limitation Act was dismissed by the trial Court.
2. On perusal of the order closing opportunity of the petitioner dated 15-02-2019, it appears that the trial Court has referred only to the provision under Order 8 Rule 1 of the CPC.
3. As there is specific provision under Section 148 of the CPC for granting extension of time in cases where such circumstances exist and that has also been interpreted in the case of **Salem Advocate Bar Association, T.N. Vs. Union of India**, (2005) 6 SCC 344, therefore, I

am of this opinion that the order passed dated 15-02-2019 was without considering the powers of Court under Section 148 of the CPC, hence, order dated 19-08-2019 is set aside and the trial Court is directed to consider the application for condonation of delay filed by the petitioner afresh in view of the observation made hereinabove.

4. The petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge