

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2570 of 2018

In
Letters Patent Appeal No.1554 of 2016

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Sri Mohan Shrivastava @ Akhauri Onkar Nath @ Mohan Shrivastava Son of
Akhauri Bhola Nath Shrivastava, Resident of Village/Mohalla- Bairagi, P.S.-
Gaya Kotwali, District- Gaya Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Home Secretary, Government of Bihar, Old Secretariat, Patna
2. The District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The District Arms Magistrate, Gaya.
5. The Thanadhyaksha, Police Station Kotwali, District- Gaya Bihar.
6. Thanadhyaksha, P.S.-Delha, District-Gaya
7. The Arms Sub Inspector, P.S.-Kotwali, District-Gaya.

... .. Opposite Party

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Appearance :

For the Petitioner : Mr.Manoj Kumar, Advocate
For the Opposite Party : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

3 09-01-2020 Heard learned counsel for the petitioner.

2. This application has been filed by the
petitioner for restoration of LPA No. 1554 of 2016, which was
dismissed due to non-compliance of preemptory order dated
08.02.2018.

3. Learned counsel for the petitioner submitted



that on 08.02.2018, a junior counsel of Mr. Manoj Kumar, learned advocate on record had appeared before the court. However, the order passed by the court on that day was inadvertently not communicated to the advocate on record as a result of which the appeal got dismissed. He has submitted that there is no deliberate laches on the part of the petitioner.

4. We have perused the record.

5. The letters patent appeal was filed by the appellant on 01.08.2016 challenging the order dated 14.09.2015 passed in CWJC No. 18676 of 2011 and CWJC No. 14062 of 2011 with several defects. It was placed before the learned Joint Registrar (Judicial) on 11.08.2016 on which date the learned Joint Registrar granted four weeks' time to the appellant to remove the defects pointed out by the stamp reporter. Since the defects were not removed within time granted by the learned Joint Registrar, the appeal was listed before the Bench on 10.04.2017. On that date one week's time was granted to the appellant to remove the defects as pointed out by the stamp reporter. Since the defects were not removed within the stipulated time granted by the court, the appeal was again listed on 18.04.2017 before the Bench. On 18.04.2017, three weeks' further time was granted at the request of learned counsel for



the appellant for removing the defects, but the defects were not removed. Thereafter, the appeal was listed on 22.08.2017 and at the request of the appellant, two weeks' further time was granted but the order was not complied with. Thereafter, on 22.09.2017, once again the Bench directed to remove the defects within four weeks, but still the order passed by the court was not complied and the defects were not removed.

6. It is in this background that on 08.02.2018, when the appeal was listed once again before the Bench, two weeks' preemptory time was granted for removal of defects but even then the defects were not removed as a result of which the appeal got dismissed.

7. We find that though the petitioner was granted repeated opportunities to remove the defects over a period of one year and six months, he chose not to comply the courts order. He was not pursuing the appeal diligently. There appears to be deliberate lapses on his part. There is no proper explanation for not removing the defects pointed out by the stamp reporter.

8. Keeping in mind the facts and circumstances of the case, as discussed above, we see no justification to restore the appeal.



9. Accordingly, the restoration application is dismissed.

(Ashwani Kumar Singh, J)

(Partha Sarthy, J)

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