

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 297 of 2009

- Meena Bai D/o Bedwa, aged about 14 years, Minor, through her natural guardian Mother Geeta Bai W/o Bedwa Satnami, R/o Vill. Girdharikanpa, Post Bharewa (Peoran) Tah. Pandariya, District-Kabirdham, C.G.

----- Appellant

Versus

1. A) Bedwa (died) through his legal heirs Beeram Bai W/o Bedw, aged about 42 years,
 - B) Bablu, S/o Bedwa, aged about 22 years,
 - C) Neelu S/o Bedwa, aged about 15 years,
 - D) Chandrakali, D/o Bedwa, aged about 23 years,
 - E) Sunita, D/o Bedwa, aged about 21 years,
 - F) Ramkali, D/o Bedwa, aged about 18 years,
- All are R/o Village-Mudpar, Tahsil-Mastoori, District Bilaspur, C.G.

----- Respondents

For Appellant :- Mr. Sumit Shrivastava, Advocate
on behalf of Mr. Sunil Sahu, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

15/07/2020

1. Proceedings of this matter have been taken up through video conferencing.
2. Heard on I.A. No.1, application for condonation of delay in preferring the instant appeal. The application is filed by the appellant/defendant for condonation of delay of 1044 days in preferring the instant appeal.
3. Mr. Shrivastava, learned counsel for the appellant/defendant, would submit that the appellant/defendant is 14 years minor girl and her natural guardian mother is illiterate who could not prefer appeal right in time and, therefore, the delay being bona fide and unintentional deserves to be condoned.
4. I have heard learned counsel for the appellant on the application for condonation of delay and gone through the record with utmost circumspection.
5. Paras No.2 to 4 of the application for condonation of delay state as under:-

"2. That, the appellant is 14 years minor girl and her natural guardian Mother Smt. Geeta Bai is illiterate and when she came to know about the impugned judgment and decree dated 05.05.2007, she requested the Lower Court counsel for engaging the counsel before Hon'ble High Court for the purpose of filing the second appeal and handed over the papers in the month of June, 2009.

3. That, she asked from the lower Court counsel regarding the progress of appeal but he did not inform any thing to the mother of the appellant, so she came to Bilaspur and enquired about the case and thereafter taken back the papers from earlier counsel and engage the counsel for filing the appeal.

4. That, the appellant handed over the papers on 10.06.2009 and counsel prepared the appeal and without making any delay filed the same on 15.06.2009."

6.A careful perusal of the aforesaid application would show that the only reason is that the appellant is a minor girl and her natural guardian mother Geeta Bai is illiterate and, therefore, the appeal could not be preferred right in time whereas the affidavit has been filed by Geeta Bai, her natural guardian mother, and she has also filed an appeal before the Appellate Court on behalf of the appellant/defendant.

7.It is well settled law that sufficient cause

provided under Section 5 of the Limitation Act has to be construed liberally, but the party seeking condonation of delay must bring evidence on record to demonstrate that she was prevented from preferring the appeal by sufficient cause but has not shown any sufficient cause except showing that appellant is a minor girl and her natural guardian mother is illiterate and appeal itself has been filed by the natural guardian mother.

8. I do not find sufficient cause for condoning the delay of more than 2 years in preferring the appeal. Accordingly, I.A. No.1, application for condonation of delay in preferring the appeal is rejected and consequently, the second appeal stands dismissed on the ground of delay of 1044 days in filing the appeal. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge