

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.87 of 2015

Vijay Kumar Singh S/o Late Bhubneshwar Prasad Choudhary resident of village - Devgana Gharbhara, P.O. - Devgana Gharbhara, P.S. - Bochhan, Distt. - Muzaffarpur.

... .. Appellant/s

Versus

1. The Bihar State Board Of Religious Trusts and Ors
2. The State of Bihar through the Collector, Muzaffarpur.
3. Ram Sundar Prasad Singh S/o Late Uma Kant Prasad Choudhary resident of village - Devgana Gharbhara, P.S. - Bochhan, Distt. - Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sunil Kumar Verma, Adv.
For the Respondent/s	:	Mr. Kundan Bhadur Singh, APP Mr. Shekhar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 21-06-2022

Heard learned counsel for the appellant and learned counsel for the Bihar State Board of Religious Trust.

The appellant has preferred this appeal under section 55 of the Bihar Hindu Religious Trust Act, 1950 (hereinafter referred to as 'the Act') against the order dated 8.1.2015 passed by the learned District Judge, Muzaffarpur in Misc. Case no.18 of 2012.

The relevant facts in brief are that the appellant who was the Sevait of Ram Laxman Janki Mandir situated at village Devgana Garbhara under Bochhan Block in the District of Muzaffarpur moved this Court in C.W.J.C. no.4344 of 2008 praying therein for quashing the notification contained in Memo



no.1564 dated 9.1.2008 (Annexure-11) issued by the Administrator, Bihar State Religious Trust Board, Patna. By the said notification the petitioner was removed from the position of Sevait. This Court vide order dated 27.4.2012 disposed of C.W.J.C.. No. 4344 of 2008 giving liberty to the petitioner to move before the learned District Judge under section 32(3) of the Bihar Hindu Religious Trust Act. The Court further observed that in case an application is filed within four weeks the delay in filing the application would be condoned.

It is the case of the appellant that for reasons beyond his control an application was filed before the District Judge, Muzaffarpur on 14.6.2012. Subsequently a petition under section 5 of the Limitation Act was also filed on 8.1.2014 praying therein to condone the delay in filing of the case.

The learned District Judge, Muzaffarpur by order dated 10.7.2014 passed in Misc. Case no. 18 of 2012 did not condone the delay in filing the application beyond the time granted by the High Court but instead of rejecting the application praying for condonation of delay, granted an adjournment of four weeks to the petitioner to obtain an order from the High Court with respect to the same. The petitioner once again moved this Court by filing M.J.C. No.2827 of 2014 (in C.W.J.C. no.4344 of 2008)



praying therein for extension of time in filing of the miscellaneous case before the District Court, Muzaffarpur. The said MJC no.2827 of 2014 was disposed of vide order dated 15.10.2014 observing that in case the petitioner satisfies the learned District Judge, Muzaffarpur that he has sufficient reasons for filing the miscellaneous case beyond four weeks time framed by this Court, the learned District Judge, Muzaffarpur would condone the delay in filing of the same.

It is submitted by learned counsel for the appellant that the appellant pressed the earlier petition filed under section 5 of the Limitation Act, however, without considering the same, by the order impugned dated 8.1.2015, Misc. Case no.18 of 2012 filed by the appellant was rejected by the learned District Judge, Muzaffarpur. In support of his contention learned counsel for the appellant relies on the Division Bench judgment of this Court in the case of *Municipal Commissioner, Patna Municipal Corporation, Patna, Bihar versus A to Z Infrastructure Ltd.* [2014 (2) PLJR 737] and more particular paragraph nos. 16 and 25 thereof to submit that this Court has held that the approach of the Court should be liberal, pragmatic and justice oriented in condonation of delay and the Courts are not supposed to legalise injustice but are obliged to remove injustice. It is thus submitted



that the learned District Judge having rejected his application on the technical ground of limitation, has erred and thus the order impugned dated 8.1.2015 be set aside.

The appeal is opposed by learned counsel appearing for the Bihar State Board of Religious Trust. It is submitted by learned counsel that at the outset the judgment in the case of Municipal Commissioner, Patna Municipal Corporation (supra) would not be applicable in the case of the appellant in the facts of the case. There is no merit in the application and the same is fit to be dismissed with costs.

Having heard learned counsel for the parties and taking into consideration the facts of the case it transpires that the order dated 9.1.2008 (Annexure-11) by which the petitioner was removed from the position of Sevait was challenged by him in C.W.J.C. no. 4344 of 2008. The same should have been challenged under section 32(3) of the Act by filing an appropriate application before the District Judge within a period of three months which came to end on 9.4.2008. On CWJC no. 4344 of 2008 being taken up, by order dated 27.4.2012, this Court taking a liberal view of the matter, was pleased to dispose of the said writ application giving liberty to the petitioner to file his application under section 32(3) of the Act before the District



Judge concerned. The delay in filing of the application which was nearly four years was condoned by this Court which observed that in case the application is filed within four weeks, the delay would be condoned. Nevertheless instead of filing the application before the District Judge within a period of four weeks which ended around 27.5.2012, the appeal was filed after much delay of 14.6.2012. Even from perusal of the limitation petition (Annexure 16) filed before the District Judge it would transpire that except for a bald statement in paragraph no.2 thereof that the petitioner was suffering from hepatitis disease from 28.4.2012 to 13.6.2012, no other details nor any supporting documents etc. have been brought on record. It would also be relevant to point out that on the petitioner coming to this Court once again in M.J.C. no.2827 of 2014, liberty was granted to him vide order dated 15.10.2014 (Annexure-18) that in case the petitioner satisfies the learned District Magistrate, Muzaffarpur that he has sufficient reason for filing the miscellaneous case beyond four weeks time framed by this Court, the learned District Judge would condone the delay in filing of the same. Even after the said liberty granted vide order dated 15.10.2014, no further petition nor any documents were filed and the petitioner pressed his prayer for condonation of



delay on the basis of his petition dated 8.1.2014.

After hearing the parties, the learned District Judge vide order dated 8.1.2015 rightly rejected the application of the petitioner on the ground of delay and consequently, the miscellaneous application under section 32(3) of the Act was also dismissed as time barred.

The Court does not find any illegality in the order impugned dated 8.1.2015 passed in Misc. case no.18 of 2012 by the learned District Judge, Muzaffarpur.

The appeal is dismissed.

(Partha Sarthy, J)

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Uploading Date	25.6.2022
Transmission Date	

