

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.1020 of 2017**

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Lakshmi Sao son of Binda Sao, Resident of Village- Mandai, P.O.- Sapneri,  
P.S. Khizarsarai, District- Gaya.

... .. Appellant/s

Versus

Ram Lakhan Mistry son of Moti Mistry, Resident of Village- Mandai, P.O.-  
Sapneri, P.S. Khizarsarai, District- Gaya.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Shailesh Kumar, Adv.  
For the Respondent/s : Mr. Rajiv Ranjan, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL ORDER**

3      14-07-2022

**Re: I.A. No.8128 of 2017**

Heard learned counsel for the appellant and learned  
counsel for the respondent.

The instant application has been filed for condonation  
of delay in filing of the Misc. Appeal against the judgment and  
order dated 22.12.2016 passed in Case no. C.W.C. 21 of 01 by  
the learned Deputy Labour Commissioner-cum-Commissioner,  
Workmen Compensation, Magadh Division, Gaya.

It is submitted by learned counsel of the appellant that  
delay in filing of the appeal occurred because unfortunately the  
appellant suffered from abdominal pain with vomiting and fever.  
He contacted a doctor and it was detected that he was suffering  
from jaundice. Several medicines were prescribed and he was  
given complete bad rest.



The appellant continued to remain bed ridden for 8 months and could move only in the month of October, 2017. Thereafter he contacted the lawyer in Patna High Court, the case was prepared and filed which led to the delay of about 8 months 10 days. The delay was not intentional nor deliberate and was for reasons beyond the control of the appellant.

The prayer for condonation of delay is opposed by learned counsel for the respondent who has filed a reply affidavit.

Learned counsel submits that from perusal of the certificate issued by Sri Vinayak Hospital and which is enclosed with the interlocutory application, the same is highly unsatisfactory in so far as no supporting documents have been given and the contents of the certificate does not support that the appellant being bed ridden for 8 months. Further the said certificate is undated and as such it is prayed that the petition for condonation of delay be rejected and the miscellaneous appeal be dismissed.

Having heard learned counsel for the parties and on going through the contents of the application praying for condonation of delay. It transpires that the appellant has enclosed with the same copy of the certificate issued by a



doctor. On bare perusal of the said certificate, neither the same contains the name of the doctor nor any date nor the period from which the appellant was under bed rest. From bare perusal of the same it would appear that the same has only been made for the purpose of utilizing the same in a Court proceeding.

In the opinion of the Court, the appellant has not made out a case for condonation of delay and the application (I.A. no.8128 of 2017) is dismissed.

Consequently, the instant Misc. Appeal also stands dismissed.

**(Partha Sarthy, J)**

Bibhash/-

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