

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10528 of 2007

Jayakrushna Dhal and others

....

Petitioner(s)

Miss. Mamata Mishra,
Adv.

-versus-

Saraswati Nath and others

....

Opposite Party(s)

M/s.M.Mohanty,Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

14.11.2022

Order No.

7

1. Heard learned counsel appearing for the parties.
2. This Writ Petition involves a challenge to the impugned order at Annexure-1 appears to be dismissing the revision under Section 37 (1) of the O.C.H. & P.F.L. Act 1972 on the ground of highly belatedness. Through pleading there is disclosure on the delay aspect to the effect that after appeal is over, on wrong advise of the counsel, a suit was instituted. From the Writ Petition it discloses T.S. No.21 of 1996 was filed immediately after appeal order is passed. From the Writ Petition pleading again it has been stated after the death of plaintiff, on reconsideration of the entire aspect while deciding for substitution, it is ascertained that instead of civil suit, a revision under Section 37(2) of O.C.H. & P.F.L. should have been take up. It is accordingly a revision was brought in the year 2007. The Writ Petition neither involve the revision petition under section 37 (1) of the O.C.H. & P.F.L. Act, 1972

nor even the delay condonation application involved therein. From the nature of order this court finds, the revision since has been dismissed on account of delay, there is no notice to the contesting opposite parties available at that stage. Miss. Mishra, learned counsel for the petitioners in the above background of the case seeks interference of this Court in the impugned order.

3. Mr.Mohanty, learned counsel appearing for Opposite party Nos. 1 & 2 through the counter affidavit submits that there is no reasonable explanation in explaining the delay, further in absence of copy of limitation application, these parties unable to answer on the grounds taken herein.

4. Considering the grounds raised in the writ petition and going through the decision involved herein, this Court finds, there has been no reason in rejecting the ground raised in the application at all and for the nature of dispute having no other alternate avenue or legal remedy, in the interest of justice while dismissing the main application on the ground of limitation, adjudicating authority should have indicated non-acceptance of the grounds dealing with the grounds raised therein and given his finding on such ground. For mechanical rejection of the revision, this Court interferes in the order at Annexure-1 and however for there is requirement of reconsideration of limitation aspect , this Court remits the matter back to the revisional authority for reconsideration of the delay aspect and involving the contesting opposite parties herein. Both the petitioners and contesting opposite parties are

directed to appear before the Commissioner for fresh hearing on the question of delay on 24.11.2022 and take date of hearing of delay condonation application. There may be service of copy of revision petition along with copy of delay application, if any, to the contesting opposite parties herein also therein on the date of appearance itself. The contesting opposite parties may have the scope of filing objection before date of hearing of such application. For there is interference in the impugned order, finding reasoning this Court while expresses no opinion on the merit involving such application leaves it for the consideration of the Adjudicating Authority dependant on the submission of the respective parties.

5. The writ petition stands disposed of.

(Biswanath Rath)
Judge