

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.18366 OF 2010

Kalpalata Sarangi

....

Petitioner

Mr.N.Lenka, Adv.

-versus-

Upendra Giri

....

Opposite Party(s)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
21.12.2022**

Order No.

04.

1. Heard learned counsel for the Parties.
2. The Writ Petition involves dismissal of statutory Appeal of course on the ground of limitation. There is no dispute that the Appel filed after 700 and odd days accompanying a Petition under Section 5 of the Limitation Act.
3. Referring to the averments in the Appeal Memo at Annexure-2 and the original certificate being produced, learned counsel for the Petitioner contended, there is in fact a medical certificate available indicating the Petitioner was ill from 9.8.2007 to 2.9.2009. It is taking this Court to the impugned order, learned counsel for the Petitioner submitted that there has been no

consideration of the medical certificate and statutory right of Appeal has been defeated on the ground of limitation only.

4. Considering the submission made, this Court finds, in filing the Application under Section 5 of the Limitation Act in Paragraph- 2, the Petitioner herein pleaded as follows :-

“2. That due to illness the appellant could not file the appeal in time as the appellant was ill from 6.8.2007 to 2.9.2009 and was under the treatment of the doctor and in support of his illness, a medical certificate is enclosed herewith.”

5. Perusing original medical certificate, this Court finds, the medical certificate reveals as follows :-

“Certified that Sri Umakanta Sarangi Sarangi S/o. Ananda Chandra Sarangi of Bijay Prava Chandapur, Ward No.15, Baripada aged about 60 years was under my treatment from 9.8.2007 to 2.9.2009 for Hypertension is Vatigo and was advised rest.

He is now relieved and fit to resume his normal duty from tomorrow the 3.9.2009.

Signature of Sri Sarangi is attested below.”

6. Considering the submission of the learned counsel for the Petitioner and the input through the medical certificate, this Court nowhere finds, as to the nature of disease the Petitioner was suffering, for which he was required to undergo treatment for over two years. The only suffering appears from the medical certificate to be the Petitioner was suffering from Hypertension, i.e., Vatigo and as a consequence, he was advised for bed rest. Looking to the nature

of observation, the disease, particularly this Court finds, such disease cannot keep a person away from normal activity for two years.

7. In the above scenario, this Court finds, there is no reasonable explanation in preferring Appeal after two years. This Court does not find any infirmity in the impugned order to be interfered with.

8. The Writ Petition thus stands dismissed. The original medical certificate produced in Court be kept on Record.

M.K.Rout



(Biswanath Rath)
Judge