

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.385 of 2015

Biswanath Jena (since died) Appellants
represented through his LRs and
another

M/s. Mamata Mishra, Advocate and associates
-versus-

Additional Consolidation Respondents
Commissioner, Jajpur Circle, Cuttack
and others

Mr. Debakanta Mohanty, A.G.A.

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
22.09.2022

Order No.

03.

Misc. Case No.501 of 2015

1. For the reasons stated, the delay in filing the writ appeal is condoned.
2. The Misc. Case is allowed.

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3. The challenge in the present appeal is to an order dated 13th April 2015 passed by the learned Single Judge in CMAPL No.194 of 2010 declining to recall an order dated 3rd November 2006 passed by the learned Single Judge dismissing OJC No.4293 of 1996 for default.

4. The ground urged before the learned Single Judge to explain the delay in filing the application for recall was that not only the counsel who conducted the case on behalf of the Appellants had died in sometime in November 2003 without the Appellants being aware of it, but even one of the Appellants had died and therefore it was only in 2010, when the son of Appellant No.1 had come to Cuttack and wanted to meet his lawyer that he could know that the writ petition had been dismissed for default on 3rd November, 2006.

5. As rightly pointed out by the learned Single Judge, there was absolutely no explanation from the side of the Appellants as to what prevented them from in collecting the information with regard to the status of the writ petition for such a long period. Even before this Court, learned counsel for the Appellants is unable to give any convincing explanation for the inordinate delay in approaching the learned Single Judge for recall of the order of dismissal in default.

6. In the circumstances, the Court is unable to find any error having been committed by the learned Single Judge in rejecting the said application for recall. The writ appeal is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge