

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMAPL No.587 Of 2019
(Through hybrid mode)

Sashi Mallik

.... Petitioner

Mr. S.C. Dash, Advocate

-versus-

State of Odisha and others

.... Opposite parties

Mr. S.N. Das, ASC

CORAM: JUSTICE ARINDAM SINHA

Order
No.

ORDER
13.07.2022

3. 1. This CRLMA application has been specially assigned. Mr. Dash, learned advocate appears on behalf of applicant and submits, his client is petitioner in the writ petition, dismissed for non-prosecution by order dated 3rd August, 2017 passed by coordinate Bench. He submits his client was unaware of the dismissal. That is reason for delay in applying for restoration. He submits further, his client was also not aware that the writ petition had been listed before said coordinate Bench.
2. Mr. Das, learned advocate, Additional Standing Counsel appears on behalf of opposite party no.1.
3. Text of order dated 3rd August, 2017 made by the coordinate Bench is reproduced below.

“None appears on behalf of the petitioner when the matter is called. Learned counsel for the opposite party no.2 is present.

This is a case of the year 1996. It appears that the petitioner is not interested in this case.

Accordingly, the writ application stands dismissed for non-prosecution.”

Opposite party no.2 present that day has been served notice of the application but goes unrepresented. Court presumes said opposite party does not have objection for the writ petition being restored. Other opposite parties were also absent that day.

4. Order sheet reveals on 17th July, 2017 the writ petition was placed before another learned Single Judge, who released it from the list. None of the parties had appeared on that day. The writ petition was next listed before the coordinate Bench on 3rd August, 2017, when it was dismissed for non-prosecution. As such Court accepts the explanation of applicant that he was unaware of the writ petition having had been listed and called on hearing before coordinate Bench and dismissed for non-prosecution. The delay is condoned.

5. The application is allowed. Order dated 3rd August, 2017 is recalled and the writ petition restored to file and number.

(Arindam Sinha)
Judge

Sks