

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET No. 302 of 2022

Debasish Pattanaik

.....

Petitioner

Mr. J.P. Mohapatra, Advocate

-versus-

Smt. Bani Bandana Das

.....

Opposite Party

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

22.12.2022

I.A. No.301 of 2022

Order No.

01 .

1. This matter is taken up through hybrid mode.
2. Heard Mr. J.P. Mohapatra, learned counsel appearing for the Applicant.
3. This is an application under Section 5 of the Limitation Act for condoning the delay of 46 days in filing the Review Petition under Order 47 Rule 1 read with Section 114 of the CPC in respect of the common judgment dated 24.08.2022 delivered in MATA No.75 of 2016 and MATA No.76 of 2016. In the course of considering the causes assigned for explaining the delay, we have taken care of merit of the Review Petition.
4. In the Review Petition, the principal ground that has been taken is that by affirming the judgment dated 25.04.2016

delivered in Civil Proceeding No.08 of 2011 by the Judge, Family Court, Cuttack a *serious error* has been committed by this Court while appreciating the evidence, based on which leave to file the suit for divorce before completion of one year of marriage has been refused. The error according to the Applicant is apparent in the face of the record.

5. We have considered the other grounds which are in our considered view an invitation for reappraising the evidence for reversal of the finding.

6. Mr. Mohapatra, learned counsel for the applicant has referred to a decision of the apex court in ***Board of Control for Cricket in India vs. Netaji Cricket Club and Others***: AIR 2005 SC 592.

7. In ***Netaji Cricket Club*** (supra), the sufficient reasons included a misconception of fact or law by the court or even by an advocate. But, in subsequent decision in ***State of West Bengal & Ors vs. Kamal Sengupta & Anr.*** (2008) 8 SCC 616 the apex court has distinguished *sufficient reasons*. It has been held that *sufficient reasons* under Order 47 Rule 1 of the CPC have to be understood within the four corners of *error apparent*. A passage from ***Kamal Sengupta*** (supra) is reproduced hereunder for referring to the enunciation as noted above:

“Under the provisions in the Travancore Code of Civil Procedure which is similar in terms to Order XLVII, Rule 1 of our Code of Civil Procedure, 1908, the Court of review has only a limited jurisdiction circumscribed by the definitive limits fixed by the language used therein. It may allow a review on three specified grounds, namely, (i) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by him at the time when the decree was passed, (ii) mistake or error apparent on the face of the record and (iii) for any other sufficient reason. It has been held by the Judicial Committee that the words "any other sufficient reason" must mean "a reason sufficient on grounds, or least analogous to those specified in the rule.”

8. On scrutiny of the judgment dated 24.08.2022, we do not find any *misconception of fact* or *error apparent*. Elaborate reasons have been laid for affirmation of the judgment dated 25.04.2016 as delivered in Civil Proceeding No.08 of 2011. As there is no sustainable ground to maintain the review, we are of the view that the delay of 46 days should not be condoned.

9. Accordingly, this application for condonation of delay stands dismissed.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge

RVWPET No.302 of 2022

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1. In view of the order passed today in I.A. No.301 of 2022, this Review Petition is dismissed.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge