

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.103 of 2018

Sanjay Paswan S/o Brahmdeo Paswan Resident of village - Hatiaundha, Ward No. - 6, Police Station - Bihariganj, District - Madhepura.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Shankar Paswan S/o Late Dani Paswan Village - Hatiaundha, Police Station - Bihariganj, District - Madhepura.
3. Sudama Devi W/o Brahmdeo Paswan Resident of village - Hatiaundha, Ward No. - 6, Police Station - Bihariganj, District - Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Singh, Advocate Mr. Shashi Nath Jha, Advocate
For the Opposite Party/s	:	Mr. Uday Shankar Sharan Singh Gp 19 Mr. R.K. Chandram Ac to Gp 19

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

4 24-03-2023

Re: I.A. No. 6731 of 2018

This interlocutory application has been filed for condoning the delay of 116 days in filing the instant Civil Revision application.

Learned counsel for the petitioner submits that instant Civil Revision application has been filed against the impugned order dated 12.12.2017 whereby Title Execution Case No. 01 of 2012 has been dismissed for default.

Learned counsel for the petitioner submits that the petitioner has been living outside his village for the purpose of livelihood and was not aware of the disposal of the aforesaid



Execution Case. He submits that only in the month of last week of June 2018 he came to his village and contacted his lawyer at Madhepura, who advised him to file the case against the impugned order before the Hon'ble High Court. Soonafter, the present Civil Revision application was filed on 20.07.2018. The opposite parties appeared through their counsel in this Case and the name of the State counsel is appearing in the daily cause list.

Only counter affidavit has been filed in this Civil Revision application. There is no reply filed against the limitation petition.

In the aforesaid facts and circumstances and averments made in this application, I.A. No. 6731 of 2018 is allowed and the delay in filing the Civil Revision application is condoned.

This Civil Revision application has been filed for setting aside the impugned order dated 12.12.2017 passed in Title Execution No. 01 of 2012 by the learned Sub-Judge 1st Madhepura by which the said Title Execution Case has been dismissed for non-prosecution.

In the case of *Mt. Gunjra Koer Vs Mt. Lakhani Koer* reported in *AIR 1916 Patna 331* this Court has held that under Order IX Rule 13 of the Civil Procedure Code does not apply to



proceeding in execution. The application for execution which was dismissed for default, a petition for execution should, when struck off be presented afresh and not revived.

In the aforesaid circumstances, the petitioner seeks permission to withdraw this Civil Revision application with a liberty to file afresh Execution Case before the concerned Court.

In view of the above settled law, the Civil Revision application is disposed of with a liberty to file afresh application for execution of the decree before the concerned Court.

(Khatim Reza, J)

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