

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.357 of 2019

In
Civil Writ Jurisdiction Case No.10705 of 2013

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Rekha Kumari wife of Sri Subodh Prasad @ Kumar Resident of Village -
Murgiachak, Police Station - Islampur, District - Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director, Integrated Child Development Service (ICDS) Social Welfare Department, Govt. of Bihar, Indra Bhawan, Patna- 800001.
3. The Commissioner, Patna Division Patna- 800001.
4. The District Magistrate cum the Collector District Collectariat at Bihar Sharif, District- Nalanda.
5. The District Programme Officer ICDS Office at Bihar Sharif, District- Nalanda.
6. The Child Development Project Officer Block- Islampur, District- Nalanda.
7. Usha Kumari wife of Sri Prakash Kumar At present resident of Village and Post Gajasarai, P.S. Islampur, District- Nalanda. Permanent Address- Sarthua Tola, Sevapuri, Post- Ginjee, Block and P.S.- Hulasganj, District- Jehanabad, PIN- 804406.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Jayram Sharma, Advocate
For the Respondent/s	:	Mr.Gyan Prakash Ojha (Ga7)
		Mr.Ajit Kumar, AC to GA 7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-03-2024

Re:I.A. No. 2 of 2023

Heard I.A. No. 2 of 2023 for condonation of delay of
322 days in filing LPA. For the reasons stated in application and
affidavit, and the fact that in writ petition notice was not issued to



appellant and she has not been heard as is evident from the order sheet maintained in CWJC No. 10705 of 2013. Accordingly, I.A. No. 2 of 2023 stands allowed.

2. On the previous occasion dated 16.02.2024, the following order was passed:-

“There is a delay of 322 days in filing the present LPA. Perusal of the application for condonation of delay, it is evident that on 19.03.2018, CWJC No. 10705 of 2013 was decided whereas the appellant had the knowledge of aforementioned order of this Court on 03.02.2019. When we posed question as to why there is delay of one year in respect of knowledge of the order of this Court, it is submitted, on instruction, that no notice was issued to the appellant/7th respondent in the CWJC no. 10705 of 2013. In other words, it is an ex parte order in so far as the appellant is concerned. To apprise the aforementioned statement, no material has been placed on record to the extent whether this Court has issued a notice in CWJC no. 10705 of 2013 to the appellant who was respondent in CWJC. Therefore the appellant is hereby directed to produce complete order sheet of CWJC no. 10705 of 2013 in order to ascertain whether notice was issued to the appellant or not?”

2. List this matter on 01.03.2024.”

3. Appellant has filed supplementary affidavit along with complete order sheet maintained in CWJC No. 10705 of 2013. Perusal of the order sheet, it is evident that no notice has been issued to the appellant who was Respondent No. 7 in the writ



petition. In all fairness, she should have invoke remedy of filing civil review petition instead of filing the present LPA.

4. Accordingly, the present LPA No. 357 of 2019 stands disposed of. Reserving liberty to the appellant to file civil review petition before the learned Single Judge. If there is a delay, the same shall be taken note of with reference to pendency of LPA read with Section 14 of the Limitation Act, 1963.

5. Pending I.A(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

