

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.97 of 2023

In
FIRST APPEAL No.149 of 2017

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Lakshman Sah Son of Late Ramjee Sah Resident of Village- Tulsia, P.O.-
Bajjnathpur, Police Station- Bihariganj, District- Madhepura (Bihar),
presently- Road No. 6, Near Ramlakhan Path, Ashok Nagar, Kankarbagh,
Sampatchak, Patna- 800020, Bihar.

... .. Petitioner/s

Versus

1. Chandrakala Devi Wife of Ashok Kumar Sah, D/o Late Ramjee Sah Resident of Village- Tulsia, P.O.- Bajjnathpur, Police Station- Bihariganj, District- Madhepura (Bihar), at Present Village- Dibara Bazar, P.O.- Dibara Bazar, P.S.- Barhara Kothi, District- Purnea.
2. Gopal Kumar Sah, Son of Late Ramjee Sah Resident of Village- Tulsia, P.O.- Bajjnathpur, P.S.- Bihariganj, District- Madhepura.
3. Pradeep Kumar Sah, Son of Late Ramjee Sah Resident of Village- Tulsia, P.O.- Bajjnathpur, P.S.- Bihariganj, District- Madhepura.
4. Indira Devi, Wife of Birendra Sah, D/o- Ramjee Sah Resident of Village- Singheswar, P.S.- Singheswar, District- Madhepura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav, Advocate
For the Opposite Party/s : Mr. Amit Kumar Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 10-04-2024

Re: I.A. no. 1 of 2023

1. The instant interlocutory application has been filed on behalf of the petitioner praying for condonation of delay in filing for review of the judgment dated 8.2.2023 passed in First Appeal no.149 of 2017 whereby this Court not finding any merit in the appeal was pleased to dismiss the same.

2. By order dated 2.2.2024, the respondent no.1 having already appeared through her counsel, notices were



issued to respondent nos. 2, 3 and 4 which have been validly served as per service report at flag 'A' and 'B'. Referring to the petition for condonation of delay in filing of the review application, learned counsel for the petitioner submits that the petitioner is aged about 64 years and suffering from many old age ailments. Further the wife of the petitioner is also an old lady suffering from cancer decease and her treatment is going on in Rajiv Gandhi Cancer Institute and Research Centre, Delhi. As such he prays that the delay in filing of the review application be condoned and the same be heard and decided on its own merits.

3. The application for review is opposed by learned counsel for the respondent no.1.

4. Having heard learned counsel for the parties and having perused the materials on record, this Court finds that the instant review application has been preferred for review of the order dated 8.2.2023 passed in First Appeal no.149 of 2017. Taking into consideration the time taken in obtaining the certified copy of the judgment as also the period of limitation, the last date for filing of the review application was 13.3.2023. The same having been filed on 12.4.2023, there is a delay of 28 days in filing of the same.



With respect to the pleadings in the limitation petition with respect to condonation of delay, it may stated here that the petition contains six paragraphs and the petition being brief the entire petition is reproduced hereinbelow for ready reference.

“1. That this is an application for condonation of delay of _____ days in filing the review petition.

2. That the petitioner/appellant could not filed the review petition within time due to unavoidable reasons.

3. That the petitioner is aged about 64 years suffering of many old age ailments.

4. That the wife of the petitioner is also old lady suffering of Cancer disease and her treatment is going on in Rajiv Gandhi Cancer Institute and Research Centre, Delhi.

A copy of prescription dated 04.11.2022 17.03.2023 are annexed herewith and marked as Annexure-1 and 1-A to this petition. and

5. That the review petition has been prepared and is being filed alongwith this limitation application.

6. That the petitioner/appellant will suffer irreparable loss and injury if limitation is not condoned in filing the review application.

It is, therefore, prayed that your Lordship may graciously be pleased to condone the delay in filing the review petition.



And / Or

*May pass such other order or
orders as your Lordship may
deem fit and proper.*

***And for this, the petitioner/appellant shall ever
pray.”***

5. This Court finds that in view of the delay of 28 days the petitioner was required to explain the delay from 13.3.2023 till 12.4.2023 which is of 28 days. None of the paragraphs/statements made in the application for condonation of delay reproduced hereinabove, dealt with any reason for the delay in filing of the review application. In the opinion of the Court no explanation whatsoever having been given, the Court finds no merit in the application.

6. I.A. no.1 of 2023 stands dismissed.

7. The application for condonation of delay being I.A. no.1 of 2023 having been dismissed hereinabove, the main review application also stands dismissed.

(Partha Sarthy, J)

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