

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.332 of 2024
In
Civil Writ Jurisdiction Case No.9166 of 2023

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1. The State of Bihar through Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
 2. The Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
 3. The District Magistrate, Begusarai.
 4. The Deputy Development Commissioner, Begusarai.

... .. Appellant/s

Versus

Surendra Das Son of Ram Swarup Das Resident of Ward No. 11,
Hanumannagar, P.O.- Udaipur Mohiuddin Nagar, Samastipur, Bihar - 848210.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajit Kumar, GA-9 Mr. Manoj Kr. Sinha, AC to GA-9
For the Respondent/s	:	Mr. Nikhil Kumar Agrawal, Advocate Ms. Aditi Hansaria, Advocate Mr. Yash Sahay, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-12-2024

Re: I.A. No. 02 of 2024

The present application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 118 days.

2. Having gone through the affidavit, accompanying the delay condonation application, we are satisfied that there is sufficient cause for delay condonation.



3. The delay in filing the appeal is condoned.

4. The Interlocutory application stands allowed.

Re: L.P.A. No. 332 of 2024

5. The appellant is the State of Bihar, who was aggrieved with the order of the learned Single Judge, who granted interest for the delayed payment of the amounts due under contract.

6. Admittedly, the petitioner-respondent entered into a contract with the State and it is submitted that the work had been completed, but the payments were not made. The petitioner did not take any proceedings admittedly. Later, some of the contractors who had not received payments approached this Court with writ petitions. A batch of writ petitions were disposed of directing disbursement of the amounts with interest. The State Government took a decision to disburse the amounts in all the pending bills where the contractors had completed the work and also paid their dues. The petitioner also got the amounts in 2018.

7. The writ petition of 2023 claimed for interest, which was granted by the learned Single Judge. In similar circumstances, we held so; in *L.P.A. No. 337 of 2024 (The State of Bihar and Others vs. Urmila Devi)*, overturning an identical



judgment of the learned Single Judge, in Paragraph Nos. 8 to 10, which are extracted below:

“8. We cannot but notice that the petitioner, whose bill payments were pending from 1991, did not approach any authority or a legal forum to get disbursed the amounts as per the bills submitted. It is on the basis of a judgment passed in another contractor’s case that the payments were made by the State. Admittedly, the payments were made in the year 2018. As rightly submitted by the learned Advocate General, the petitioner could have moved the Civil Court for interest within three years from the date of payment, which could be taken as the point at which the limitation had commenced for reasons of the admitted payments having been made with respect to the bills submitted in the year 1991.

9. The petitioner did not approach the Civil Court nor did the petitioner approach the Writ Court within the limitation provided. The present attempt by a writ petition is clearly to get over the limitation, as provided under the Limitation Act, 1963. In any event, in contractual matters Article 226 cannot be invoked.

10. We are of the definite opinion that the learned Single Judge erred in granting interest and computing the same in a petition under Article 226, without adjudicating the quantum of loss caused to the petitioner by reason of the delay occasioned, which again has to be on sufficient evidence and cannot be agitated in a petition under Article 226 of the Constitution of India.”



Admittedly, the respondent did not move for payment of the money due within the three years provided under the Limitation Act, 1963. It is fortuitous that the respondent got the payment of the bills in the year 2018. Again, the respondent waited for five years before approaching this Court under Article 226 of the Constitution of India, far after the time for initiating a suit for recovery of money; viz three years, had expired.

8. On the above reasoning, we find absolutely no reason to sustain the order of the learned Single Judge. We allow the appeal setting aside the order of the learned Single Judge.

9. The appeal stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2024.
Transmission Date	

