

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.512 of 2019

In
Civil Writ Jurisdiction Case No.447 of 2016

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Srimati Lalpari Devi Wife of Late Uday Narayan Singh Resident of Mohalla
and P.S. Budha Colony District- Patna- 800001.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, Co-operative Department,
Government of Bihar
2. Smt. Vidyawati Devi Wife of Sri Yamuna Prasad R/o Mundersah Cold
Storage, Khajpura, P.S.- Rupaspur, District-Patna-800014
3. Sri Ram Nagri Sahkari Grih Nirman Samiti Ltd. Ram Nagri, P.S. Danapur,
Patna through its Secretary

... .. Respondent/s

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Appearance :

For the Appellant/s	:	None
For the Respondent/s	:	Mr. A.K. Dubey, A.C. to AAG 11
For respondent no.2	:	Mr. M.N. Parbat, Sr. Advocate Mr. Praveen Prabhakar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

4 11-07-2024 1. No one appears for the appellant. Learned
counsel for the State of Bihar and learned Senior counsel for the
respondent no.2 are present.

Re: I.A. no.1 of 2019

2. This interlocutory application has been filed on
behalf of the appellant praying for condonation of delay of 673
days in filing of the instant appeal.

3. On perusal of the records it transpires that the
limitation for filing an appeal against the order dated 3.5.2017



passed in CWJC no.447 of 2016 expired on 19.6.2017, however, the appeal was filed after a delay of 673 days on 23.4.2019.

4. It is the case of the appellant in the application filed for condonation of delay that as one of his counsels was suffering from loose motion, the other counsel had gone to attend *shradh* ceremony of his maternal uncle and the clerk could not mark the list, none appeared on behalf of the appellant when the case was taken up and the learned Single Judge decided the case on merits on 3.5.2017. The appellant learnt about the dismissal of his case only on 29.3.2019 during the hearing of another writ application ie CWJC no.14479 of 2015. As such it is prayed that the delay in filing of the appeal be condoned.

5. The prayer made in the application is opposed by learned counsel for the respondents.

6. Having gone through the material on record and specially the contents of the application filed for condonation of delay, the Court is not satisfied that the appellant has made out a case for condonation of delay.

Re: LPA no.512 of 2019

7. The instant appeal has been preferred by the appellant against the order dated 3.5.2017 passed in CWJC



no.447 of 2016 whereby the learned Single Judge was pleased to dismiss the writ petition.

8. On perusal of the material on record, it transpires that the case of the appellant is that she purchased Plot no.47 in Block no. 2 measuring an area of 2640 sq.ft. in Mohalla-Khajpura, P.S. Gardanibagh in the town and District- Patna.

9. The request of the petitioner for confirmation of his right, title and possession over the Society Plot no.47 was rejected by order dated 25.3.2006/25.4.2006 passed in Case no. 124 of 2002 by the learned Joint Registrar, Marketing, Cooperative Societies, Bihar, Patna. The Appeal no.16 of 2007 was also rejected by the Additional Registrar, Cooperative Societies, Bihar, Patna by order dated 12.10.2012. Against both these orders the appellant moved this Court in CWJC no.447 of 2016 which was dismissed by the learned Single Judge by his order dated 3.5.2017 against which the instant appeal has been preferred.

10. The case of the appellant as evident from the material on record is that the plot in question having been transferred in favour of the appellant by a registered sale deed, her request for confirmation of her right, title and possession over the same should have been accepted.



11. In response, it is the case of the respondent no.2 that much prior to the so called sale deed executed in the year 1988 in favour of the appellant the plot in question was transferred in favour of respondent no.2 by a registered sale deed of the year 1985.

12. Taking into consideration the case of the parties and also that the only remedy left to the petitioner was to approach the Civil Court of competent jurisdiction for which reliance was placed on behalf of the respondents in the case of *Swati Pandey versus Registrar, Cooperative Societies [2007(2)PLJR525]* and also taking into account that the relief prayed for was hopelessly time barred, the learned Single Judge dismissed the writ application.

13. In view of the facts and circumstances of the case, the Court finds no merit in the instant appeal.

14. Both the interlocutory applications (I.A. no.1 of 2019) filed for condonation of delay as also the appeal (LPA no.512 of 2019) are dismissed.

(K. Vinod Chandran, CJ)

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(Partha Sarthy, J)

