

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15754 of 2024

Shivdahin Yadav Son of Late Dwarika Yadav Resident of Village- Sarsauli,
P.O.- Lohari Via- Deohara, P.S.- Goh, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through its District Magistrate, Aurangabad (Bihar).
2. The Additional Collector, Aurangabad.
3. The Deputy Collector, Land Reforms, Aurangabad.
4. The Circle Officer, Goh, Aurangabad.
5. Ram Lakhan Singh, Son of Ramdahin Singh Resident of Village- Sarsauli,
P.O.- Lohari, Via- Deohara, P.S.- Goh, District- Aurangabad.
6. Ram Naresh Singh, Son of Ramgati Singh Resident of Village- Sarsauli,
P.O.- Lohari, Via- Deohara, P.S.- Goh, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uma Kant Mishra
For the Respondent/s : Mr.Standing Counsel (13)

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 08-10-2024

Heard the parties.

2. The petitioner is aggrieved by order dated 05.03.2020 passed by the learned Tribunal, whereby the Misc. Case No. 10/2020 which was filed for restoration of Misc. Case No. 17/2019 for restoration of BLT Case No. 277/2017 stood dismissed.

3. Learned Advocate for the petitioner contended that on account of sheer laches on the part of the conducting counsel, BLT Case No. 277/2017 stood dismissed for non-prosecution vide order dated 17.07.2018 as the applicant remained absent consecutively on three dates. On account of dismissal of BLT Case for non-prosecution, the petitioner filed Misc. Case No.



17/2019, however, it also stood dismissed for non-prosecution on 08.05.2019. Having come to know about the dismissal of the restoration application, another restoration application bearing Misc. Case No. 10/2020 also filed. The learned Tribunal, on being found that out of three advocates, none of them have ensured their presence for consecutively three dates, left with no option, dismissed the Miscellaneous Case. The reason assigned for long delay and non appearance of the petitioner is not accepted, leading to dismissal of subsequent Misc. Case No. 10 of 2020 vide order dated 05.03.2020.

4. Learned Advocate for the State submits that the laches are writ large, apart from BLT Case, Misc. Case No. 17/2019 filed for restoration of the BLT Case also stood dismissed for non-prosecution.

5. Learned Advocate for the petitioner contended that if the BLT Case No. 277/2017 shall not be restored to its original file, irreparable injury shall be caused to the petitioner. All the more, even the order of dismissal on account of non-prosecution has not been communicated by the concerned lawyer to the petitioner and, as such, delay has occurred in approaching this Court also. Averments have been made in the writ petition to show the bona fide of the petitioner in pursuing



his remedy.

6. The Hon’ble Supreme Court ruled in its catena of pronouncement that for the mistake of the Advocate the party should not suffer. The obligation of the parties to trust their advocates cannot be easily brushed aside in the Indian judicial system, where the litigants have been coming from far-flung area, having no access to internet, apart from their illiteracy and poverty, who repose immense faith to their respective lawyers as a protector.

7. In view of the submissions advanced and the averments made in the writ petition, the Court, for the ends of justice, sets aside the order dated 05.03.2020 passed in Misc. Case No. 10/2020 and directs the Tribunal to consider the restoration application of the petitioner bearing Misc. Case No. 17/2019 filed for restoration of BLT Case No. 277/2017 sympathetically. The matter is relegated to the BLT to consider afresh.

8. The writ petition stands allowed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	14 .10.2024
Transmission Date	

