

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**SECOND APPEAL No.5 of 2024**

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Md. Noor Sahab S/o Late Ishuf Mian, Resident of Village-Lalpur Bhimnagar,  
P.S-Birpur, Dist-Supaul.

... .. Appellant/s

Versus

1. Jageshwar Prasad Sah S/o Puhup Lal Sah, Resident of Village-Lalpur, P.S-Birpur, Dist-Supaul.
2. Ram Sakal Sah, S/o Bir Singh Sah, Resident of Village-Raghunathpur, P.S-Birpur, Dist-Supaul.

... .. Respondent/s

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**Appearance :**

|                      |   |                             |
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| For the Appellant/s  | : | Mr. Ebrahim Kabir, Advocate |
|                      |   | Mr. Ramson Vyas, Advocate   |
| For the Respondent/s | : | Mr.                         |

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL ORDER**

3      25-04-2024

**I.A. no.1 of 2024**

1. Heard learned counsel for the appellant.

2. The instant application under section 5 of the Limitation Act has been filed by the appellant praying for condonation of delay of about 3 years 8 months in filing of the instant second appeal against the judgment dated 5.12.2019 passed in Title Appeal no.49 of 2007 by the learned Additional District Judge III, Supaul.

3. It is submitted by learned counsel for the appellant that the instant appeal could not be filed in time because the appellant is poorly literate. He had gone for Haj pilgrimage in the year 2019 and unfortunately his son also passed away on



23.7.2020. It is further submitted that there was lockdown because of the Covid-19 pandemic. The appellant had no knowledge of law nor about the disposal of the title appeal and came to know about the same only on receiving notice in Title Execution Case no.1 of 2020. Having come to know about the same, the appellant immediately took steps, contacted his Advocate and filed the instant appeal.

4. Having heard learned counsel for the appellant and having perused the material on record, it transpires that the instant appeal has been preferred against the judgment and decree dated 5.12.2019 and 16.12.2019 respectively in Title Appeal no.49 of 2007 passed by the learned Additional District Judge III, Supaul. The time for filing of the instant appeal having expired on 4.3.2020, the instant appeal came to be filed on 5.1.2024. Thus, the appellant is required to explain the delay from 5.3.2020 to 5.1.2024.

5. It may be mentioned here that the Hon'ble Supreme Court in the case of *Cognizance for Extension of Limitation in Re. [(2021) 5 SCC 452]* has ordered that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.3.2020 till 14.3.2021 shall stand excluded. Even after excluding the said period, the delay of 2



years 9 months approx from 15.3.2021 to 5.1.2024 still remains to be explained.

6. So far as the other contention on behalf of the learned counsel for the appellant is concerned that he came to know about the disposal of the title appeal only on receiving notice in connection with Title Execution Case no.1 of 2020, neither any date has been stated nor mentioned nor any copy of the notice has been brought on record to show as to when the notice was received by the appellant in the execution case. Even for the sake of argument accepting the statement made in paragraph no.6, it would transpire that the appellant himself filed an application in the execution case on 18.8.2022. Thus, the appellant had knowledge about the disposal of the title appeal at least in August 2022 itself.

7. So far as the other contentions raised on behalf of the appellant are concerned that he is poorly literate, has no knowledge of law and was not given good advice for filing an appeal within time, in the opinion of the Court, the same are to be stated to be rejected. The Court is not satisfied with the explanation furnished for the delay of about 3 years in filing of the instant appeal. Not finding any merit in the application for condonation of delay, the same is rejected.



8. I.A. no.1 of 2024 stands rejected.

9. The application for condonation of delay having  
been rejected, the appeal also stands dismissed.

**(Partha Sarthy, J)**

Saurabh/-

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