

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.115 of 2020

In
Civil Writ Jurisdiction Case No.20964 of 2012

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The State of Bihar & Ors.

... .. Appellant/s

Versus

Uma Shankar Tiwary & Ors.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Madhaw Prasad Yadaw (Gp 23)

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 19-02-2025

Re:I.A. No. 02 of 2020

Heard I.A. No. 02 of 2020, there is a delay of about 399 days in filing LPA No. 115 of 2020. The cause of action accrued to the appellant on 25.12.2018 in the light of the learned Single Judge order dated 26.11.2018. The reasons assigned in para nos. 4 and 5 reads as under:-

“4. That the order dated 26.11.2018 passed in CWJC No. 20964 of 2012 was moved on 02.09.2019, 05.09.2019, 06.09.2019, 12.09.2019, 16.09.2019, 31.10.2019. 25.11.2019, 31.10.2019, 05.11.2019. 25.11.2019 and on 09.12.2019 decision had been taken to file LPA and direction has been given to prepare grounds of appeal and on 10.12.2019 the grounds of appeal was prepared in place of review and approval of SOF was called for by the advocate of the Department vide order dated



11.12.2019 request was made to consider the prepared ground for approval on 16.12.2019 the file was placed before the Additional Chief Secretary to forwarded the same to the Law Department whereupon on 17.12.2019 consent was given by Additional Chief Secretary to send the file to the law department on 19.12.2019 the file is said to be received the office of the Learned Advocate General, Bihar, Patna. Thereafter file was received from the office of the G.P.-23 and after that on 21.12.2019 correspondence was to the Department for limitation and stay and thereafter X-mas holiday Court is opened on 06.01.2020 and thereafter memo of appeal for LPA was prepared, I.A. petition of limitation and stay petition have been prepared and thereafter conversation was made to take oath and after that the instant case is being filed with limitation petition.

5. That it is relevant to submit here that the delay is not intentional or deliberate negligence rather the delay has been caused on account of procedural law of State as well as communication made in between the authorities concerned. ”

2. For the purpose of condonation of delay of 399 days in filing LPA No. 115 of 2020. The aforementioned cause is not sufficient. Therefore, appellants have not made out a case so as to condone the delay of about 399 days in filing LPA No. 115 of 2020.

3. Recently, Hon'ble Supreme Court in the case of ***State of Madhya Pradesh Vs. Ramkumar Choudhary*** decided in ***[SLP(c) Diary No. 48636 of 2024]*** on November 29, 2024 read with ***H. Guruswamy & Ors. vs. A. Krishnalah*** reported in



2025 SCC OnLine SC 54 principles have been laid down under what circumstances delay application filed by the State or individual is liable to be dismissed. Having regard to the principle laid down in the aforementioned decision, the present I.A. No. 02 of 2020 stands dismissed. Resultantly, LPA No. 115 of 2020 stands dismissed.

4. Pending Interlocutory Application(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

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