

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.593 of 2024

In
Letters Patent Appeal No.825 of 2018

=====

Kamta Ojha Son of Late Ram Naresh Ojha, resident of Village-Nawadih,
Police Station-Bihiya, District-Bhojpur.

... .. Petitioner/s

Versus

1. The Bharat Petroleum Corporation Ltd. through its Chairman-cum-Managing Director, Head Office, Mumbai.
2. The Area Marketing Manager, Bharat Petroleum Corporation Ltd., Patna.
3. The Territory Manager, Retail, Patna.
4. The District Magistrate, Bhojpur at Ara, Bihar.
5. The Sub-Divisional Officer, Jagdishpur, District-Bhojpur, Bihar.
6. The Circle Officer, Bihiya, Police Station-Bihiya, District-Bhojpur, Bihar.
7. Smt. Prerna Sao, Wife of Pawan Kumar Jaiswal, resident of Raja Bazar, Police Station-Bihiya, District-Bhojpur, Bihar.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Gopal Govind Mishra, Advocate.
For the Opposite Party/s	:	Mr. Md. Khurshid Alam, AAG-12.
For BPCL	:	Ms. Aditi Hansaria, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

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

3 06-03-2025 The present MJC No. 593 of 2024 has been filed to recall the order dated 19.12.2019 passed in LPA No. 825 of 2018. There is a delay of about 4 years and few months in filing the present MJC No. 593 of 2024 for restoration. The reasons assigned by the petitioner are mentioned in paragraph nos.4, 5, 6, 7 & 8, it reads as under:-

“4. That neither the counsel for the



appellant/ petitioner nor his advocate clerk informed the petitioner regarding the order dated 19.12.2019 passed by the Hon'ble Court.

5. That the respondent No.7 was submitted the order dated 19.12.2019 passed by the Division Bench of Hon'ble Patna High Court in Title Suit No.27 of 2011 pending in the court of Learned Munsif, Jagdishpur on 22.12.2023 then the petitioner came in to knowledge of the order passed by the Hon'ble Court.

6. That thereafter the petitioner consulted his advocate on 22.12.2023 through Mobile Phone then the advocate for the petitioner insured the petitioner to reply after making inquiry about the progress of the case.

7. That the advocate for the petitioner informed the petitioner on 23.12.2023 that the aforesaid appeal was dismissed for default.

8. That the counsel for the petitioner failed to mark the cause list and failed to appear before this Hon'ble Court."

2. The above reasoning cannot be taken into consideration for the purpose of sufficient cause so as to condone the delay of about 4 years and few months. Recently, Hon'ble Supreme Court deprecated such belated filing of litigation. The litigant cannot contend ignorance of subject impugned order and file litigation after number of years.

3. Taking note of these facts and circumstances, present MJC No. 593 of 2024 stands **dismissed** with cost of Rs.5,000/-. Cost shall be paid in the Lawyers' Association Welfare Benevolent Fund, Indian Bank, Branch - LNMI, Bailey



Road, Patna, IFSC No. IDIB000L501 having Bank Account No.7801893276.

4. At this stage, we have noticed that new counsel has presented the present MJC for restoration. The principle insofar as filing MJC for restoration of a dismissed for non-prosecution, in such circumstances invariably advocate on record has to file restoration petition. Otherwise limited issue of giving no objection from the advocate on record. Both the ingredients are not forthcoming. The present advocate, Mr. Gopal Govind Mishra is not aware as to what has transpired on the date of dismissal of L.P.A. No. 825 of 2018 for non-prosecution. There is a lack of communication among the advocate on record in the original petition and so also his client and thereafter the present counsel who has filed the present MJC should have in all fairness obtained no objection certificate. This type of practice is deprecated.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

utkarsh/-

U			
---	--	--	--

