

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.420 of 2019

In
Civil Writ Jurisdiction Case No.18457 of 2014

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1. The Union Of India through the Ministry of Railways, Govt. of India, New Delhi.
 2. The General Manager, East Central Railway, Hajipur, Bihar.
 3. The Controller of Stores, East Central Railway, Samastipur, Bihar
 4. The Chief Material Manager (Sales), East Central Railway, Hajipur, Bihar.
 5. The Deputy Chief Material Manager, East Central Railway, Samastipur, Bihar.
 6. The Divisional Material Manager (Admn), East Central Railway, Samastipur, Bihar.
 7. The Assistant Material Manager (Depot), East Central Railway, Samastipur, Bihar.
 8. S.S.E. (C and W) Pataratu, Dhanbad, East Central Railway, Hajipur, Bihar.

... .. Appellant/s

Versus

Mahaprabhu Steels Private Limited, 135/25/M/2 Girish Ghosh Road,
Belurmath, Howrah-711202, P.S. Belur, Dist. Howrah, West Bengal through
its Director, namely Vikash Modi.

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Kanak Verma, CGC
For the Respondent/s : Mr.Ram Kishore Singh, Advocate



CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 03-04-2025

Re: I.A. No. 01 of 2020

Heard I.A. No. 01 of 2020 for condonation of delay.

There is a delay of about 1051 days in filing L.P.A. No. 420 of 2019.

2. The reasons assigned are in paragraph no. 6, which reads as under:-

“6. That thereafter the memo of appeal was drafted and after the same was vetted the letters patent appeal was filed on 25.3.2019 but without a petition for condonation of delay. After elevation of Standing Counsel to the Bench Anil Singh Advocate was re-nominated by the Railways to appear in the present appeal through letter dated 4.7.2019. On query been made by the Railways from the re-nominated Counsel about status of the appeal the counsel filed inspection slip for inspection of the records in December 2019 and on inspection he found that certain defects were found including absence of a petition for condonation of delay since there was a delay of 2 years and 23 days and directed to be removed by the stamp reporter and ordered by the Joint Registrar, Lawazima on 14.5.2019 itself. Thereafter one set of complete brief and welfare fee stamp of Rs 45 was filed on 6. 12. 2019 for removal of some of the defects. The present petition for condonation of delay was thereafter drafted in such circumstances mentioned above.”



3. The present Letters Patent Appeal is on behalf of Union of India/Railway authorities. The aforementioned reason is not sufficient to condone the delay of about 1051 days in filing the LPA No. 420 of 2019.

4. Recently, the 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. Krishnaiah***, reported in ***2025 SCC OnLine SC 54*** have laid down the principles in paragraphs-13 to 17 under what circumstances litigation are to be dismissed on the ground of delay. Paragraphs-13 to 17 are read as under:

“13. We are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as “liberal approach”, “Justice oriented approach”, “substantial justice” should not be employed to frustrate or jettison the substantial law of limitation.

14. We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a lis between the parties.

15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties



do not resort to dilatory tactics but seek their remedy promptly.

16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time."

5. Taking note of the aforementioned principles, the appellants have not made out a case so as to condone the delay of about 1051 days in filing L.P.A. No. 420 of 2019.



6. Accordingly, I.A. No. 01 of 2020 stands dismissed.

L.P.A. No.420 of 2019:

7. Resultantly, L.P.A. No. 420 of 2019 stands dismissed.

8. Pending I.A., if any, stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
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