

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.495 of 2021
In
CIVIL REVIEW No.319 of 2019

1. M/S Manishwar Enterprises Varmalichak Patna City through the Proprietor Sh. Ram Jewan Singh, aged about 68 years, (Male), Sonof Late Bharat Lal Singh, Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.
2. Sh. Ram Jewan Singh Son of Late Bharat Lal Singh Proprietor M/S Manishwar Enterprises, Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.
3. Sh. Ganga Dayal Singh Son of Late Bharat Lal Singh Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.

... .. Appellant/s

Versus

1. Punjab National Bank, S.S.I. Branch J.J. Complex, East Boring Canal Road, Patna, Post Office - Boring Canal Road, Police Station- Budha colony, Town and District- Patna.
2. Ajit Kumar Sonof Late Jag Jiwan Singh Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.
3. Munna Kumar Son of Jag Jiwan Singh Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.
4. Raja Kumar Son of Late Jag Jiwan Singh Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.
5. Rahul Kumar Son of Late Jag Jiwan Singh Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.
6. Shaila Devi Widow of Late Jag Jiwan Singh Resident of Village - Gauharpur, Post Office - Kothia, Patna City, Police Station- Didarganj, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shambhu Nath Choubey, Advocate
	:	Mr. Arun Kumar Lal, Advocate
For the Respondent/s	:	Mr. Mritunjay Kumar, Advocate
	:	Mr. Ram Ganesh, Advocate
	:	Ms. Shilpi Singh, Advocate

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

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



6 05-03-2025

Re:-I.A. No. 01 of 2021

Heard I.A. No. 01 of 2021 for condonation of delay in filing the present L.P.A. No. 495 of 2021. Cause of action accrued to the appellants on 25.03.2020 in the light of order dated 26.02.2020 passed in Civil Review No. 319 of 2019 read with the order dated 28.08.2019 passed in C.W.J.C. No. 13705 of 2018. No doubt the entire period from the date of cause of action till filing of present L.P.A. would cover Covid-19 period, however there is no explanation in respect of number of days of delay. However, in the interest of litigant, we ignored in not mentioning the number of days of delay.

2. Accordingly, the delay in filing the present L.P.A. is condoned. I.A. No. 01 of 2021 is allowed.

Re:-Letters Patent Appeal No.495 of 2021

3. With the consent of the respective counsels for the parties, L.P.A. No. 495 of 2021 is taken up for final disposal.

4. Appellants had suffered an order in R.P. Case No. 48 of 2005 on 10.07.2015. He had statutory remedy of appeal before the D.R.T. and thereafter he had further statutory remedy of appeal before the D.R.A.T. and thereafter he has remedy of filing writ petition before this Court. Without exhausting statutory remedy of appeal and further appeal before Tribunal, he has rushed to this Court in filing C.W.J.C. No. 13705 of



2018. Writ petition has been filed in the year 2018 and, therefore, he has slept over the matter for about 3 years. In order to overcome the delay in filing appeal against the order dated 10.07.2015 passed in R.P. Case No. 48 of 2005 within a period of 30 days, appellants have invoked remedy under Article 226 of the Constitution of India. Writ Court has no power to overcome the statutory provision in respect of entertaining appeal, aggrieved person is required to invoke remedy of appeal within the time limit stipulated, thereafter there is no power to condone the delay. In such circumstances statutory provision cannot be ignored or sidetrack by Writ Court as held by Hon'ble Supreme Court in the case of *Assistant Commissioner (CT) LTU, Kakinada & Ors. Vrs. Glaxo Smith Kline Consumer Health Care Limited* reported in *(2020) 19 SCC 681 : (2020) 77 GSTR 342 : 2020 SCC OnLine SC 440*

5. In the light of these facts and circumstances, the appellants have not made out the case so as to interfere with the order of learned Single Judge dated 28.08.2019 passed in C.W.J.C. No. 13705 of 2018 read with order dated 26.02.2020 passed in Civil Review No. 319 of 2019.

6. Accordingly, L.P.A. No. 495 of 2021 stands dismissed.



7. At this stage, learned counsel for the appellants intends to withdraw the present L.P.A. No. 495 of 2021. He is permitted to withdraw.

8. Accordingly. L.P.A. No. 495 of 2021 stands dismissed as withdrawn.

9. Pending I.A.(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

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