

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.800 of 2025

In

Civil Writ Jurisdiction Case No.5668 of 2013

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Naresh Prasad, Son of Late Murat Prasad, Resident of Village- Hathiyakand Sarai, Police Station- Maner, District - Patna.

... .. Appellant/s

Versus

1. Deepak Kumar Choudhary, Son of Subash Choudhary, Resident of Village- Hathiyakand Sarai, Police Station- Maner, District - Patna.
2. Raj Kumar Choudhary, Son of Subash Choudhary, Resident of Village- Hathiyakand Sarai, Police Station- Maner, District - Patna.
3. Subash Choudhary, Son of Late Bhowchand Choudhary, Resident of Village- Hathiyakand Sarai, Police Station- Maner, District - Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhanendra Chaubey, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-03-2026

This Letters Patent Appeal has been filed challenging the order dated 11.03.2016 passed by the learned Single Judge in C.W.J.C. No. 5668 of 2013. The said writ petition was filed, inter alia, assailing the order dated 29.01.2013 passed by the learned Sub-Judge-III in Title Suit No. 127 of 2009 by which the petition under Order 1 Rule 10 filed on behalf of the appellant was dismissed.

2. The office has pointed out objection regarding the maintainability of the Letters Patent Appeal and accordingly



it has been placed under the heading “For Orders on Office Notes”.

3. A coordinate Bench of this Court in L.P.A. No. 138 of 2011 while dealing with the identical objection raised by the Stamp reporter has categorically held that no intra Court appeal under Clause-10 of the Letters Patent shall lie from a judgment or order made in exercise of revisional jurisdiction or one made in exercise of power of superintendence. It would be pertinent to quote the relevant paragraph for the needful.

“The learned Writ Court has dismissed the writ petition after considering the matter on merits. The first issue is whether an appeal under Clause-10 of the Letters Patent of this Court would lie against the judgment of an order of the Writ Court which could be passed only in exercise of power under Article 227 of the Constitution of India. A mere look at Clause- 10 of the Letters Patent makes it clear that no appeal shall lie from a judgment or order made in exercise of revisional jurisdiction or one made in exercise of power of superintendence which was earlier under the provisions of Section 107 of the Government of India Act and is now available only under Article 227 of the Constitution.”

4. It would also be relevant to observe here that there is inordinate delay in approaching the Court, challenging



the order of the learned Single Judge passed in C.W.J.C. No. 5668 of 2013. The Hon'ble Supreme Court in the case of **Union of India & Ors. Vs. Jahangir Byramji Jeejeebhoy (D) through his legal heir**, reported in, **2024 SCC OnLine SC 489**, has observed that delay should not be excused as a matter of generosity and rendering substantial justice should not be rendered at the cost of opposite party. The relevant paragraphs are quoted hereinbelow:

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

xxx xxx xxx

26. The length of the delay is 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 appellants, it appears that they want to fix their own period of limitation for 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.

27. 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. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants."

5. It is trite that where a case/appeal has been presented in the Court beyond limitation, the applicant/appellant has to explain to the Court as to what was the sufficient cause, which prevented him from approaching the Court within the period prescribed.

6. In **Majji Sannemma Vs. Reddy Sridevi**, reported



in, **2021 SCC Online SC 1260**, the Hon'ble Supreme Court has underscored that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute.

7. In the case of **Ajay Dabra Vs. Pyare Ram**, reported in, **2023 SCC Online SC 92**, the Hon'ble Supreme Court has held as follows:

“13. This Court in the case of Basawaraj v. Special Land Acquisition Officer [(2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be



justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

8. Having considered the aforementioned settled position, as also considering the inordinate delay in approaching this Court, we are not inclined to entertain the present Letters Patent Appeal.

9. Accordingly, the present Letters Patent Appeal stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

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