IN THE HIGH COURT OF JHARKHAND AT RANCHI

C.M.P. No. 1108 of 2025

1. Sudha Bajpayee, wife of late Amar Nath Bajpayee, aged 50 years, resident of 63, Chandrawati Nagar, Dimna Road, Mango, P.O. Mango, P.S. M.G.M., town Jamshedpur, District East Singhbhum, Jharkhand and also at Holding No. 1 A, Bajpayee Niwas, Teachers' Colony, Dimna Road, Near Blue Bells English High School, P.O. and P.S. Mango, Jamshedpur, District East Singhbhum, Jhrkhand-831012. **... ... Petitioner No.1/Appellant No.1**
2. Prajwal Bajpayee, Son of late Amar Nath Bajpayee, aged 27 years, resident of 63, Chandrawati Nagar, Dimna Road, Mango, P.O. Mango P.S. M.G.M, town Jamshedpur, District East Singhbhum, Jharkhand and also at Holding No.1A, Bajpayee Niwas, Teachers' Colony, Dimna Road, Near Blue Bells English High School, P.O. and P.S. Mango, Jamshedpur, District East Singhbhum, Jharkhand-831012. **... ... Petitioner No.2/Appellant No.2**
3. Pragati Bajpayee, daughter of late Amar Nath Bajpayee, aged about 23 years, resident of 63, Chandrawati Nagar, Dimna Road, Mango, P.O. Mango, P.S. M.G.M., town Jamshepdur, District East Singhbhum, Jharkhand and also at Holding No.1 A, Bajpayee Niwas, Teachers' Colony, Dimna Road, Near Blue Bells English High School, P.O. and P.S. Mango, Jamshedpur, District East Singhbhum, Jharkhand-831012. **... ... Petitioner No.3/Appellant No.3**

Versus

1. Bhakti Pada Choudhury, Son of late Kali Pada Choudhury, resident of Flat No. 6A, 3rd Floor, Elite Apartment, New Dalma View Colony, Road No. 7 Extn., P.O. and P.S. Sonari, town Jamshedpur, District East Singhbhum, Jharkhand.
... ... Opposite Party No.1/Respondent No.1
2. M/s. Buildcon India, a Proprietorship Concern, having its office at H. No. 128, Sanjay Road, Near Bangal Club, P.O. and P.S. Sakchi, town Jamshedpur, District East Singhbhum, Jharkhand.
... ... Opposite Party No.2/Respondent No.2
3. Samir Chakraborty, Son of Ratan Kumar Chakraborty, proprietor of M/s. Buildcon India, resident of Flat No. 4-H, 4th Phase, Adarsh Nagar, P.O. and P.S. Sonari, town Jamshedpur, District East Singhbhum, Jharkhand.
... ... Opposite Party No.3/Respondent No.3
4. Tarun Kanti Ghosh, Son of Tapan Kumar Ghosh, resident of 368, Dimna Road, Silsila Chowk, P.O. and P.S. Mango, town Jamshedpur, District East Singhbhum, Jharkhand.
... ... Opposite Party No.4/Respondent No.4

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioners : Ms. Prachi Pradipti, Advocate
For the Respondent No.1 : Mr. Tamal Choudury, Advocate

18/**11.09.2026**

1. This C.M.P. has been filed for restoration of F.A. No. 128 of 2023, which stood dismissed for non-removal of defects in terms of order dated 04.07.2024. I.A. No. 3177 of 2025 has been filed seeking condonation of delay of 114 days in filing this CMP.

2. She has submitted that the memo regarding dismissal of the case was issued to the petitioners vide memo dated 13.12.2024, annexed as Annexure 2 to the C.M.P. Learned counsel has also submitted that thereafter, C.M.P. has been filed on 09.01.2025. She has submitted that, pursuant to the order passed by this Court on 04.07.2024, sone defects were removed and remaining defects could not be removed due to inadvertence, which ultimately led to dismissal of the first appeal. She has submitted that the first appeal may be restored so that the case may be heard on merits.

3. She has further submitted that I.A. No. 3177 of 2025 has been filed seeking condonation of delay of 114 days in filing the CMP. She submits that delay in filing the petition for condonation of delay is Bonafide.

4. Learned counsel for the respondent has vehemently opposed the prayer for condonation of delay and has submitted that there has been gross negligence on the part of the petitioner in conducting the case. He has submitted that the F.A. No. 128 of 2023 was filed way back on 22.06.2023 and, prior to the order dated 04.07.2024, an order dated 29.01.2024 was passed whereby the appellant was granted four weeks' time to deposit the deficit court fee and rest of the defects were also directed to be removed. However, the defects were not removed. He has submitted that in view of the fact that there is no cogent explanation with regard to condonation of delay, the petition seeking condonation of delay may be dismissed.

5. After hearing the learned counsel for the parties and considering the fact that on 04.07.2024, peremptory 6 weeks' time was granted to

remove the defects in first appeal and part defects were removed and vide memo dated 13.12.2024 the counsel for the petitioner was informed by the office of the High Court about the dismissal of the appeal for non-compliance of order dated 04.07.2024 and then the petition for restoration was filed on 09.01.2025 and in the meantime there was also winter break.

6. Being satisfied with the cause shown, the petition being I.A. No. 3177 of 2025 seeking condonation of delay in filing the C.M.P. is hereby **allowed**, subject to payment of cost of Rs. 5,000/- to be given to the respondent No.1 within one week from today and file the receipt before this Court. The amount be handed over to the counsel for the respondent no.1 so that he may transmit the same to the respondent no.1.

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7. Learned counsel for the petitioner has submitted that a preemptory time was granted vide order dated 04.07.2024 to remove the surviving defects and only part defects could be removed. She has submitted that due to inadvertence the defects could not be removed. However some of the defects were removed pursuant to the order. She has submitted that the first appeal may be restored in its original file.

8. Learned counsel for the respondents has opposed the prayer for restoration.

9. After hearing the learned counsel for the parties and being satisfied with the cause shown, the time for removal of defect granted vide order dated 04.07.2024 in F.A. No. 128 of 2023 is extended till 26th October, 2026.

10. If the surviving defects in first appeal was removed within the extended time, office is directed to place the first appeal before appropriate bench as per roster.

11. This CMP is accordingly disposed of.

(Anubha Rawat Choudhary, J.)

11.09.2026
Rakesh/-
Uploaded On:-12.09.2026