IN THE HIGH COURT OF ORISSA AT CUTTACK
CMAPL No.123 of 2026
CNR No. ODHC010526422026

(An application Under Chapter-VIII, Rule 30 of OHC Rules, 1948).

Rabindra Nayak and another … ***Petitioners***

-versus-

State of Orissa and others … ***Opposite Parties***

For Petitioners : ***Mrs. P. Nayak, Advocate appearing on behalf of Mr. K.K. Sahoo, Advocate***

For Opposite Parties : ***Mr. J.K. Khandayat Ray, ASC***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:04.11.2026 (ORAL)

G. Satapathy, J.

CMAPL No.123 of 2026 & IA No. 209 of 2026

1. This judgment shall dispose of not only the application in CMAPL No.123 of 2026, but also IA No. 209 of 2026 filed by the Petitioners u/s 5 of the Limitation Act,1963 seeking for condonation of an inordinate delay of 1600 days in filing the CMAPL.

2. The Petitioners have in fact filed the above CMAPL to restore the OJC No. 12994 of 2000 which was dismissed for default on 03.03.2022 with the following order: -

> *"1. None appears for the Petitioners when the matter is called.*
> *2. This matter is pending since 2000. It appears that the Petitioners are not interested to pursue the matter. The Writ Petition thus stands dismissed for non-prosecution. Interim order dated 22.02.2001 passed in Misc. Case No. 12994/2000 stands vacated."*

3. Heard, Mrs. Prabahsi Nayak, learned Advocate appearing on behalf of Mr. Kishore Kumar Sahoo, learned Advocate for the Petitioners and Mr. J.K. Khandayat Ray, learned ASC in the matter and perused the record.

4. The Petitioners, however, have approached this Court for restoration of the case in OJC No. 12994 of 2000 in the present CMAPL after delay of 1600 days, but the petition to condone the delay does not contain any specific grounds for condonation of delay in filing such application. The petition by which the Petitioners seek for condonation of delay is IA No. 209 of 2026, wherein it is inter-alia stated the following the reasons for condonation of delay: -

> *"(2) That due to misfortune of the petitioners the writ petition was dismissed for default and interim order was vacated on 03.03.2022 by the Hon'ble High Court. The petitioners had no knowledge about this order. Inadvertently the counsel for the petitioners had missed the list for which he could not appear. When the Opp. Party 5 and 6 started construction over disputed plot the petitioners*

came to know that their case has been dismissed for non-prosecution.
(3) That immediately the petitioner applied for certified copy of the Order dt.03.03.2022 and obtained on 25.06.2026 and immediately CMAPL has been filed on 13.07.206 for restoration. There has been 1600 days delay in filing CMAPL."

5. On a careful scrutiny of the aforesaid averments, this Court does not find any specific explanation for condonation of delay, much less no precise date has been indicated in such application as to the time taken by the Petitioners for preparing this application and the grounds for which the Petitioners was prevented by sufficient cause in not approaching the Court in time. Merely because it is averred somewhere in the petition that there was no laches or negligence on the part of the Petitioners, the delay of such long duration cannot be condoned. It is no longer *res-integra* that an applicant can establish "sufficient cause" for not filing appropriate application like in the present CMAPL within the prescribed statutory time limit, however, the expression of "sufficient cause" cannot be stretched to cover the cases of absolute apathy and utter negligence. Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy.

Undoubtedly, courts are empowered to exercise discretion to condone the delay if sufficient cause is shown by the party, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence. At the same time, merits of the case are not required to be considered in condoning the delay.

6. In the aforesaid facts and situation and on consideration of such long delay and there being no specific ground taken by the petitioners for condonation of such a long delay, this Court does not consider it proper to condone the delay. Hence, the IA No. 209 of 2026 filed by the Petitioners for condonation of delay of 1600 days is, hereby, dismissed. Consequently, the CMAPL stands dismissed being barred by law of limitation at the admission stage.

(G. Satapathy)
Judge

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Reason: Authentication
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Date: 05-Nov-2026 18:25:02

Orissa High Court, Cuttack,
Dated the 04th day of November, 2026/Priyajit