CGHC010188472023 2026:CGHC:45661

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 523 of 2023

1 - Derha S/o. Late Shri Bhupsingh, Aged About 65 Years R/o. Village Pirchatola, P.O. - Jangalsurajpura, Tahsil Lohra, District Kabirdham Chhattisgarh.

2 - Khem Singh, S/o. Late Shri Bhup Singh, Aged About 62 Years R/o. Village Pirchatola, P.O. - Jangalsurajpura, Tahsil Lohra, District Kabirdham Chhattisgarh.

3 - Champa D/o. Late Shri Bhup Singh, Aged About 55 Years Wd/o. Govind Ram Verma, R/o. Village Pirchatola, P.O. - Jangalsurajpura, Tahsil Lohra, District Kabirdham Chhattisgarh.

... Petitioner(s)

versus

1 - Radheshyam Gaur S/o. Late Halku Singh Gaur, R/o. Village Pirchatola, P.O. - Jangalsurajpura, Tahsil Lohra, District Kabirdham Chhattisgarh.

2 - Manohar Lal, S/o. Phulsingh, R/o. Village Pirchatola, P.O. - Jangalsurajpura, Tahsil Lohra, District Kabirdham Chhattisgarh.

3 - Smt. Dheliya Bai, Wd/o. Maniram, R/o. Near Shivmandir, Shantinagar (Jacahar Nagar), Durg, District Durg Chhattisgarh.

4 - Shri Luvkush, S/o. Late Maniram, R/o. Near Shivmandir, Shantinagar (Jacahar Nagar), Durg, District Durg Chhattisgarh.

5 - State Of Chhattisgarh Through Collector Kabirdham, District Kabirdham Chhattisgarh.

... Respondent(s)

(Cause title taken from CIS)

For Petitioner(s)	**:**	Mr. Arvind Shrivastava, Sr. Advocate along

		with Mr. Indrajeet Singh Thakur, Advocate
For Respondent no. 1	:	Ms. Ankita Goswami, on behalf of Mr. P.K. Patel, Advocate
For Respondent No. 2	:	Mr. Kishore Narayan, Advocate
For State	:	Mr. Rohan Shukla, Panel Lawyer

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on board

28.10.2026.

1. The petitioners have filed the present writ petition challenging the order dated 06.02.2023 (Annexure P/1), passed by the Board of Revenue, Chhattisgarh, Bilaspur, Circuit Court at Raipur, in Case No. RN/08/R-B-121/198/2016, whereby the revision petition preferred by the petitioners under Section 50 of the Chhattisgarh Land Revenue Code, 1959, has been rejected. The petitioners prayed for the following reliefs:-

> "(A) Set aside/quash the impugned order dated 06.02.2023 (ANNEXURE P/1) of Board of Revenue, passed in RN/08/R-B-121/198/2016, by which application U/s 50 of the CGLRC for restoration was rejected and in consequence also set aside/quash the order dated 08.08.2016 (ANNEXURE P/5) of Addl. Commissioner, passed in Case No. 559-B/121 Year 2013-14, by which application U/s 35(3) of CGLRC for restoration was rejected and further setting aside the order dated 23.09.1998 (Annexure P/2) passed by Addl. Commissioner in Case No. 249/A-23/95-96 tilted as Bhup Singh & Ors. Vs. Maniram & Ors and restore the case for hearing. and/or
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> (B)That any other relief which this court thinks fit in the interest of justice & equity."

2. Learned counsel for the petitioners would submit that Lila Bai had acquired ownership and possession over land admeasuring 6.32 acres,

bearing Khasra Nos. 8/2, 8/13, 8/21 and 60/6, situated at Village Pirchatola, Tahsil Kawardha, District Rajnandgaon, pursuant to a decree passed in a partition suit, and had sold the said land to Maniram Gond, a member of the Scheduled Tribe, in the year 1975. Thereafter, Maniram Gond, with the permission of the Collector, sold the land to Bhup Singh, a non-tribal, by a registered sale deed dated 01.06.1984. An application challenging the said transaction was rejected by the Sub-Divisional Officer, Kawardha, vide order dated 03.12.1986. However, in suo motu revision, the Collector, Rajnandgaon, vide order dated 09.03.1995, set aside the order of the Sub-Divisional Officer and directed restoration of the land in favour of the legal heirs of Lila Bai under Section 170-B of the Chhattisgarh Land Revenue Code, 1959. Aggrieved thereby, the petitioners preferred a revision before the Additional Commissioner, which was dismissed for non-prosecution on 23.09.1998, as the petitioners remained absent when the matter was called for hearing.

3. Learned counsel would further submit that the petitioners thereafter approached the Secretary, Department of Revenue, Chhattisgarh Government, by filing an appeal, which was rejected for want of jurisdiction. Subsequently, they filed W.P.(227) No. 296/2011 before this Court, which was dismissed as withdrawn on 15.02.2011, with liberty to seek restoration of the proceedings before the Additional Commissioner. Pursuant thereto, the petitioners filed an application under Section 35(3) of the Land Revenue Code, seeking restoration of the revision dismissed on 23.09.1998. It was specifically pleaded that the petitioners had engaged a counsel to represent them and were under the bona fide belief that he would inform them about the dates of hearing; however, the counsel neither appeared before the Court nor intimated them about the

proceedings. The said explanation was supported by an affidavit, which remained unrebutted. Nevertheless, the learned Additional Commissioner, vide order dated 08.08.2016, rejected the restoration application, and the Board of Revenue, vide the impugned order dated 06.02.2023, dismissed the revision preferred by the petitioner.

4. Learned counsel would further submit that both the revenue authorities have erred in rejecting the restoration application by relying upon the petitioners' absence on several dates after the grant of an interim stay, instead of examining whether sufficient cause existed for their non-appearance on 23.09.1998. He would submit that the original dismissal order did not record any finding that the petitioners had deliberately remained absent after obtaining the interim stay or had intended to prolong the proceedings. He would also submit that, on the date of dismissal, notices to certain non-applicants remained unserved and information regarding the death of one of them had been received; therefore, appropriate procedural steps could have been taken to proceed with the matter. The petitioners ought not to be deprived of an opportunity to contest the revision on merits on account of the alleged negligence of their counsel, particularly when valuable rights in respect of the disputed land are involved. On these grounds, learned counsel prays that the impugned order dated 06.02.2023 passed by the Board of Revenue and the order dated 08.08.2016 passed by the Additional Commissioner be set aside and the revision proceedings dismissed for non-prosecution on 23.09.1998 be restored for adjudication on merits. In support of his submissions, he would rely upon the judgment dated 01.10.2013 passed by the coordinate bench of this Court in M.A. No. 1002/2006 (**Smt. Preetam Kaur v. Nagar Palika Parishad, Pithaura**).

5. Per contra, learned counsel appearing for the respondent No. 1 would support the impugned orders passed by the Board of Revenue and the Additional Commissioner, Durg Division, and submit that after considering the facts and circumstances of the case, the revenue authorities have rightly passed the order, which needs no interference.

6. Learned counsel for the respondent No. 2 also opposed the submission of the petitioner's counsel and submitted that the revision filed by the petitioner before the Additional Commissioner, Durg, was dismissed for want of prosecution on 23.09.1998; thereafter, till 2008, the petitioner did nothing and kept silent. In the year 2008, he approached the State Government by filing his appeal against the order dated 23.09.1998. The said appeal was dismissed for want of jurisdiction vide order dated 02.09.2009. Thereafter, after about 2 years, the petitioners filed W.P. 227 (PR) No. 296/2011, which was dismissed as withdrawn on 15.02.2011 with liberty to file a restoration application before the Additional Commissioner, Durg. The petitioners then filed the restoration application on 20.07.2011, which was dismissed on 08.08.2016, on the ground that after obtaining an interim order in the year 1996, the petitioner had not appeared in the proceedings about 10 times till 1998, and he had not explained any sufficient reason for his non-appearance in the proceedings. The Board of Revenue has also dismissed the revision filed by the petitioner vide order dated 06.02.2023. He would next submit that the petitioner has failed to give any plausible explanation for his non-appearance since 1996, and he initiated proceedings for restoration after about 10 years. Relying upon the judgment of "**Pathapati Subba Reddy (Died) by L.Rs. and Ors. v. The Special Deputy Collector (LA)**" 2024 (12) SCC 336, he would submit that the orders passed by revenue

authorities are strictly in accordance with law and the writ petition is liable to be dismissed.

7. I have heard learned counsel for the respective parties and perused the documents annexed with the petition.

8. Having heard learned counsel for the parties and upon perusal of the material available on record, the following question arises for consideration: whether the learned Additional Commissioner and the Board of Revenue have committed any illegality or jurisdictional error in rejecting the petitioners' application for restoration of the revision proceedings dismissed for non-prosecution on 23.09.1998.

9. Before considering the merits of the case, it is necessary to notice the provisions of Section 35 of the Land Revenue Code, which is as under:

> **35.Hearing in absence of patry.**
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> "(1) If on the date fixed for hearing a case or proceeding, a Revenue Officer finds that a summons or notice was not served on any party due to the failure of the opposite party to pay the requisite process fees for such service, the case or proceeding may be dismissed in default of payment of such process fees.
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> (2) If any party to a case or proceeding before a Revenue Officer does not appear on the date fixed for hearing after due service of a notice or summons on him the case may be heard and determined in his absence or may be dis-missed in default, as the case may be.
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> (3) The party against whom any order is passed under sub-section (1) or (2) may apply within thirty days from the date of such order or knowledge of the order in case the notice or summons was not duly served, to have it set aside on the ground that he was prevented by any sufficient cause from paying the requiste process fees for service of a summons or notice on the opposite party or from appearing at the hearing and the Revenue

Officer may, after notice to the opposite party which was present on the date on which such order was passed and after making such inquiry as he considers necessary, set aside the order passed.

(4) Where an application filed under sub-section (3) is rejected, the party aggrieved may file an appeal to the authority to whom an appeal lies from an original order passed by such officer.

(5) Except as provided in sub-section (4) or except where a case or proceeding before any Revenue Officer has been decided on merits, no appeal shall lie from an order passed under this section."

10. It is not in dispute that the revision preferred by the petitioners against the order dated 09.03.1995 passed by the Collector, Rajnandgaon, was dismissed for non-prosecution on 23.09.1998. The petitioners sought restoration of the said proceedings by filing an application under Section 35(3) of the Land Revenue Code, on the ground that their counsel had neither appeared before the Court nor informed them about the dates of hearing. However, the explanation regarding the alleged negligence of the counsel addresses the reason for their absence on the date when the revision was dismissed; it does not, by itself, explain why the petitioners failed to take timely steps to seek restoration after the dismissal. As reflected from the chronology of events, the petitioners approached the State Government in the year 2008, and the appeal was rejected for want of jurisdiction on 02.09.2009. Thereafter, they approached this Court by filing W.P.(227) No. 296/2011, which was dismissed as withdrawn on 15.02.2011, with liberty to seek restoration before the Additional Commissioner. The petitioners thereafter pursued the restoration application, which came to be rejected on 08.08.2016. Thus, although the petitioners eventually pursued the remedy indicated

by this Court, the material question remains whether they have satisfactorily accounted for the substantial period that elapsed between the dismissal of the revision in 1998 and their subsequent attempts to revive the proceedings in the year 2008. The liberty granted by this Court to seek restoration did not, in itself, condone the earlier delay or dispense with the requirement of explaining it.

11. The principle that a litigant should not ordinarily suffer for the negligence of his counsel cannot be applied mechanically, irrespective of the facts and circumstances of the case. The Court is required to examine not only the reason for non-appearance on the date of dismissal but also the conduct of the litigant before and after such dismissal. In **Smt. Preetam Kaur** (supra), the coordinate Bench of this Court considered the question of restoration of proceedings dismissed for default. However, the applicability of the principle laid down therein must be assessed in the factual context of the present case. The petitioners cannot claim restoration as a matter of course merely by attributing their absence to the negligence of their counsel, particularly when the prolonged inaction subsequent to the dismissal remains unexplained. The fact that the explanation regarding counsel's absence was supported by an unrebutted affidavit may be relevant to the question of non-appearance on 23.09.1998, but it does not satisfactorily account for the petitioners' failure to take appropriate steps for nearly a decade thereafter.

12. The legal position in this regard stands settled by the judgment of the Hon'ble Supreme Court in **Pathapati Subba Reddy** (supra). The Hon'ble Supreme Court has held that, although a liberal and justice-oriented approach may be adopted while considering delay, the existence of sufficient cause is a condition precedent for exercising the

discretionary power to condone it. The concepts of substantial justice and a liberal approach cannot be employed to revive stale proceedings in the absence of a satisfactory explanation for the delay. The Court has further held that negligence, inaction and want of due diligence are relevant considerations while deciding whether discretionary relief ought to be granted. It has been held that:-

> 17. It must always be borne in mind that while construing 'sufficient cause' in deciding application Under Section 5 of the Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of a decree-holder accrues and this right ought not to be lightly disturbed. The decree-holder treats the decree to be binding with the lapse of time and may proceed on such assumption creating new rights.
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> 18. This Court as far back in 1962 in the case of Ramlal, Motilal And Chhotelal v. Rewa Coalfields Ltd. MANU/SC/0042/1961 1961:INSC: 213: A.I.R. 1962 SC 361 ha emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a 'sufficient cause' for various reasons, may refuse to condone the delay depending upon the bona fides of the party.
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> 20. In this connection, a reference may be made to Brijesh Kumar and Ors. v. State of MANU/SC/0217/2014 2014:INSC:197 2014 (4) SCALE 51 Haryana and Ors. wherein while observing, as above, this Court further laid down that if some person has obtained a relief approaching the court just or Immediately when the cause of action had arisen, other persons cannot take the benefit of the same by approaching the court at a belated stage simply on the ground of parity, equity, sympathy and compassion.

25. This Court in the same breath in the same very decision vide paragraph 15 went on observe as under:

> 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.
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> (emphasis supplied)

28. The submission of learned Counsel for the Petitioners is that in somewhat similar situation, delay in filing appeal for the enhancement of compensation had been condoned by this Court. He placed reliance upon the case of Dhiraj Singh (Dead) through Legal Representatives and Ors. v. State of Haryana and Ors. MANU/SC/0778/2014: (2014) 14 SCC 127. In this case, delay in filing appeal was condoned as in other appeals compensation awarded at the rate of Rs. 200/- per sq. yd. was upheld and the proposed Appellants were also held entitled to the same benefit of compensation at the rate of Rs. 200/- per sq. yd. Instead of Rs. 101/- per sq. yd. As awarded

but with the rider that they will not be entitled for Interest for the period of delay in approaching the High Court.

13. Applying the aforesaid principles, the petitioners were required to explain the prolonged period of inaction following the dismissal of their revision in 1998. Their subsequent approach to the State Government in 2008, followed by the proceedings before this Court in 2011, does not, by itself, explain why they did not seek restoration within a reasonable period after the dismissal of the revision.

14. The contention of the petitioners that the revenue authorities ought not to have relied upon their absence on earlier dates, as the order dated 23.09.1998 did not specifically record such conduct as the reason for dismissal, is also not sufficient to warrant interference. While considering an application for restoration, the authority is entitled to examine the overall conduct of the applicants to determine whether their absence was bona fide and whether they had pursued the proceedings with due diligence. In the present case, the petitioners had remained absent on several dates after obtaining an interim order, and no satisfactory explanation has been furnished for their prolonged inaction after the revision was dismissed. Further, the fact that notices to certain non-applicants remained unserved, or that steps were required to bring the legal representatives of a deceased non-applicant on record, does not, by itself, establish sufficient cause for the petitioners' absence or explain the subsequent delay in seeking restoration.

15. In view of the foregoing discussion, this Court finds that the petitioners have failed to furnish a satisfactory explanation for the inordinate delay of approximately 10 years in taking steps to seek restoration of the

revision proceedings. The plea of negligence on the part of their counsel, even if accepted for the purpose of explaining their absence on the date of dismissal, does not explain their subsequent inaction. The learned Additional Commissioner, vide order dated 08.08.2016, and the Board of Revenue, vide the impugned order dated 06.02.2023, have declined to restore the proceedings after considering the petitioners' conduct and the reasons advanced in support of their application. In the absence of any perversity, jurisdictional error or material illegality warranting interference under Article 227 of the Constitution of India, this Court finds no ground to disturb the concurrent orders passed by the revenue authorities.

16. Accordingly, the writ petition is liable to be and is hereby **dismissed**.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sagrika