
(2017) 02 JH CK 0131
In the Jharkhand High Court
Case No : 456 of 2016

Aruneshwar Verma

APPELLANT

Vs

The State of Jharkhand & Anr.

RESPONDENT

Date of Decision : 17-02-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Section 151](#) - Saving of Inherent powers of Court
[Limitation Act, 1963](#), [Section 5](#) - Extension of prescribed period in certain cases

Citation : (2017) 02 JH CK 0131

Hon'ble Judges : Amitav K. Gupta

Bench : SINGLE BENCH

Advocate : Ganesh C. Jha

Final Decision : Dismissed

Judgement

1. Learned counsel submits that he shall remove the defect Nos.1 and 5 in course of the day.
2. On the prayer of learned counsel defect No.3 is ignored for the time being.
3. The present civil miscellaneous petition has been filed under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure for condoning the delay of 133 days in filing the application for restoration of Misc. Appeal No.243 of 2012.
4. It is submitted by the learned counsel that Misc. Appeal No.243 of 2012 was listed on 11.04.2016 under the heading for orders, but, due to a sad demise in the family of the counsel he could not attend the court on that date and he was not informed neither had knowledge that peremptory order has been passed and due to the non-compliance of the order, the appeal stood dismissed. The appellant came to know about the dismissal on 24.08.2016 on receipt of the letter served by the counsel for the respondent whereafter the counsel was

contacted and the application for restoration of Misc. Appeal No.243 of 2012 has been filed.

5. It is submitted that there has been no deliberate or intentional laches on the part of the appellant rather the delay has occurred due to the reasons as stated above.

6. Heard. Being satisfied with the reasons and explanation, the delay is condoned. Civil Miscellaneous appeal No.456 of 2016 stands allowed and Misc. Appeal No.243 of 2012 is restored to its original file.

7. Learned counsel has submitted that notice as against respondent Nos.1 and 2 be waived as they have filed their appearance in the miscellaneous appeal and prays for two weeks" time for filing of requisites of notice against respondent No.3.

8. Prayer is allowed to file requisites of notice within two weeks through ordinary process failing which the appeal shall stand dismissed as against respondent No.3 without further reference to the Bench.