

(1986) 12 OHC CK 0003

In the Orissa High Court

Case No : Orl. Jurs. Cases No"s. 1459 and 1460 of 1979

Balaram Das

APPELLANT

Vs

Sarathi Dalapati and Others

RESPONDENT

Date of Decision : 02-12-1986

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : AIR 1988 Ori 10

Hon'ble Judges : P.C. Misra, J;B.K. Behera, J

Bench : Division Bench

Advocate : P.V. Ramdas, for the Appellant;

Final Decision : Allowed

Judgement

Behera, J.—In both these writ applications, the same question of law is involved and this common order will govern both the cases. The petitioner had preferred two appeals, viz., Regulation Appeals Nos. 87 and 88 of 1979. For a few days" delay in preferring the appeals, applications had been made u/s 5 of the Limitation Act to condone the delay. Directed against the orders passed by the Officer on Special Duty, Parlakhemundi, dated May 21, 1979, the appeals were to be preferred on or before June 20, 1979. The appeals, however, were presented on July 7, 1979. The case of the petitioner in both the appeals was that he had been suffering on and from June 20, 1979 till July 6, 1979. The Collector and District Magistrate did not, in terms, reject the plea of the petitioner with regard to his illness. Notice was, however, taken of the fact that there had been delay on the part of the petitioner in making applications for certified copies, the petitioner having taken steps in this regard twenty-nine days after the passing of the orders impugned in the appeals. According to him," since the whole period of delay has not been explained in the prayer for condonation of delay", no sufficient cause has been shown by the petitioner for condoning the delay in the two appeals.

2. Upon hearing the learned counsel for the petitioner, without any one appearing

for the opposite parties, we are of the view that the appellate authority was wholly wrong in arriving at the conclusion. Each day's delay after the expiry of the period of limitation is to be explained and not each day's delay even for taking steps in getting the certified copy after the passing of the impugned order. In the two cases giving rise to the two appeals, applications for copies had been made within the period of thirty days and by the time the applications were made, time had not expired for preferring appeals.

3. We would allow the writ applications, quash Annexure-5 in each case and direct the Collector and District Magistrate to admit the appeals and dispose them of in accordance with law.

P.C. Misra, J.

4. I agree.