
(2006) 11 PAT CK 0015
In the Patna High Court
Case No : LPA No. 718 of 2006

Baleshwar Prasad Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 02-11-2006

Acts Referred:

Citation : (2007) 1 PLJR 45

Hon'ble Judges : J.N. Bhatt, C.J.; Shailesh Kr. Sinha, J

Bench : Division Bench

Advocate : S.N. Jha and D.K. Singh, for the Appellant; Alok Kumar for the State M/s. Rajendra Prasad Singh, Ashok Kumar Singh, Mrs. Manisha Singh and Prabhat Kumar Singh, for the Respondent

Final Decision : Allowed

Judgement

1. This (I.A. No. 4433 of 2006) is an application for condonation of delay of 17 days, as worked out by the office against the delay of three days, according to the appellant and 15 days according to respondent No. 9, in filing this Letters patent Appeal against the order dated 21.8.2006 of the learned Single Judge, in CWJC No. 2700 of 2006. On verification from the office, it is reported that there is delay of 17 days. The delay is sought to be condoned on the ground that the present appellant had lost a relative and on account of death of the relative, he could not contact his lawyer for filing the appeal within the period of limitation. In short, the delay of 17 days is sought to be condoned on the ground of unfortunate mishap of the demise of the relative in the family. This application is supported by an affidavit of the party. As against that the learned counsel appearing for respondent No. 9 has drawn our attention that in the written objection it has been stated that the death of the relative, for not filing the appeal within the period of limitation, could not cause a sufficient reason for condonation of delay, whereas learned counsel appearing for the respondent Nos. 1 to 8 has raised no objection against the ground of delay, as prayed for.

2. As a matter of fact, the delay condonation jurisprudence has been extensively

explored and well expounded by catena of judicial pronouncements. The corner stone of the merits of the delay condonation application has been to see that as far as possible, processual justice should not be allowed to impede the substantial justice, more so, when the party is keen to take further litigation in appeal and has not given up the cause.

3. After having heard the submissions, as well as, considering the factual profile, this Court has no hesitation in finding that it cannot be said even for a moment from the record of the present case that the party desirous to file the appeal has given up the cause. The copy of the impugned judgment was applied for very soon after the pronouncement of the impugned judgment on 21.8.2006. It is dated 22.8.2006. It was notified on 26.8.2006. Stamps were supplied on 28.8.2006 and the copy was received on the same day. These are the steps in direction of filing the Letters Patent Appeal and not accepting the verdict of the learned Single Judge as final. In other words, it is absolutely evident that the party was keen and desirous of prosecuting the lost cause before the higher forum by filing the Letters Patent Appeal. Processual law is a handmaid and not mistress of law. This proposition is extensively and celebrately established. In the light of the facts and circumstances, this Court is inclined to condone the delay, as we are satisfied that there was sufficient cause and keen desire on the part of the original writ petitioner, presently, the appellant, to file this Letters Patent Appeal and the grounds stated for condonation of delay cannot be said to be not sufficient. We, therefore, find that the delay in filing the appeal ought to be condoned. Accordingly, the delay shall stand condoned. The Interlocutory application is allowed and the rule is made absolute. No costs. Office is directed to circulate this matter in usual course.