
(2020) 02 PAT CK 0303

In the Patna High Court

Case No : Letters Patent Appeal No. 1037 Of 2019, Civil Writ Jurisdiction Case No. 16438 Of 2018

Ramesh Kanchan Kumar

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0303

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Raj Kishore Srivastava, Md. Khurshid Alam, Nutan Sahay

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the appellant and learned counsel for the respondents.
2. The appeal is reported to be delayed by 67 days.
3. We have considered the affidavit filed in support of the delay condonation application and we find that sufficient cause has been shown to condone the delay in filing the appeal. The delay is condoned and the appeal shall be treated to be within time.
4. I.A. No. 1 of 2019 stands allowed accordingly.

The appeal filed on 23.08.2019 is listed for hearing for the first time today before the Court.

2. The instant appeal has been preferred against the order dated 25.04.2019 passed by a learned Single Judge of this Court in C.W.J.C. No. 16438 of 2018, titled as Ramesh Kanchan Kumar Vs. The State of Bihar & Ors., whereby the writ petition stands dismissed.

3. The impugned order dated 25.04.2019 passed in C.W.J.C. No. 16438 of 2018

is reproduced, in toto, as under:-

"The petitioner had earlier approached this Court by filing a writ petition giving rise to CWJC No. 2166 of 2017. The writ application was, however, dismissed by order dated 13.03.2018. The said order was challenged by the petitioner under Letters Patent of this Court, which was allowed to be withdrawn with liberty to him to take recourse to statutory remedy. The petitioner has filed the present writ application and states that this writ application has been filed, in view of the liberty granted by the Division Bench of this Court in the order dated 25.04.2018, passed in LPA No. 522 of 2018.

This writ application is misconceived and it is accordingly dismissed.

I am not required to grant any liberty to the petitioner afresh as such liberty has already been granted to him by the Division Bench of this Court."

4. We do not find any infirmity or illegality in the impugned order, for the appellant has already exhausted his remedy.

5. We need not say any further, for the subsequent proceedings would be an abuse of process of law, for the appellant had withdrawn the appeal reserving liberty to take recourse to such remedies as are otherwise provided under the Statute and not to file a separate/subsequent writ petition on the same and subsequent cause of action.

6. As such, the appeal stands disposed of in terms of the liberty already granted to him.