
(2013) 03 PAT CK 0008
In the Patna High Court
Case No : Misc. Appeal No. 658 of 2007

The New India Assurance Company Ltd.	APPELLANT
Vs	
Ram Kewal Sah and Others	RESPONDENT

Date of Decision : 04-03-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 3A

Citation : (2014) 1 PLJR 50 : (2014) 2 RCR(Civil) 580

Hon'ble Judges : Akhilesh Chandra, J

Bench : Single Bench

Judgement

Akhilesh Chandra, J.

I.A. No. 6544/2008

1. Heard learned counsel Sri Mukteshwar Prasad Singh representing the appellant. This is an application seeking condonation of delay of five months in filing of M.A. No. 658/2007, filed on 17.10.2007 against order dated 15.6.2007 passed by the District Judge-cum-Claim Tribunal, Purnea, in Claim Case No. 31 of 2004.

2. An attempt is made to explain the delay from the date of order impugned till filing of the appeal mainly on some official procedures without any substance and also there is no explanation, at all, for not filing of this application filed on 10th November, 2008, which ought to have been filed seeking condonation simultaneous with the memo of appeal as is required under Order XLI, Rule 3(A) of Code of Civil Procedure, which reads as such:--

3-A. Application for condonation of delay.-

(1) When an appeal is presented after the expiry of the period of limitation specified therefor, it shall be accompanied by an application supported by affidavit setting forth the facts on which the appellant relies to satisfy the Court that he had sufficient cause for not preferring the appeal within such period.

(2) If the Court sees no reason to reject the application without the issue of a notice to the respondent, notice thereof shall be issued to the respondent and the matter shall be finally decided by the Court before it proceeds to deal with the appeal under Rule 11 or Rule 13, as the case may be.

(3) Where an application has been made under sub-rule (1), the Court shall not make an order for the stay of execution of the decree against which the appeal is proposed to be filed so long as the Court does not, after hearing under Rule 11, decide to hear the appeal.

3. And this procedure is equally applicable for filing of appeal against order or award. Thus, finding no merit. This interlocutory application stands dismissed. Consequently the appeal. There is no order as to cost.