
(2004) 11 PAT CK 0043
In the Patna High Court
Case No : C.R. No. 595 of 2004

The State of Bihar and Others

APPELLANT

Vs

Dr. (Mrs.) Saroj Verma

RESPONDENT

Date of Decision : 05-11-2004

Acts Referred:

Citation : (2004) 11 PAT CK 0043

Final Decision : Allowed

Judgement

R.N. Prasad, J.—Having heard learned counsel for the parties on the question of limitation, the delay in filing the revision petition is condoned.

2. The revision petition has been filed against the order dated 21.7.2003 passed by the District Judge, Bettiah in Title Appeal No. 4 of 2003, whereby the appeal has been dismissed on the ground of limitation.

3. The plaintiff-opposite party filed title suit No. 111 of 1998 before the Munsif court, Bettiah for declaration that the notification No. 460(3) dated 30-5-1998, the order of voluntary retirement, is illegal, mala fide and without jurisdiction and cannot be implemented by the defendants-petitioners against her.

4. The suit was decreed on 25.9.2001. The petitioners preferred title Appeal No. 4 of 2003 against the judgment and decree passed by the Munsif. They also filed a petition for condoning the delay in filing the appeal. The appellate Court dismissed the appeal by the impugned order on the ground of limitation holding that no sufficient cause has been shown for condoning the delay in filing the appeal.

5. Learned counsel for the petitioners submitted that sufficient cause was shown for condoning the delay but the court below misconstrued the same and has held that no sufficient cause has been shown. On the other hand, learned counsel for the opposite party supported the order impugned.

6. On consideration of the submissions made by the learned counsel for the

parties and the material available on the record it is evident that title appeal was filed after a period of one year six months and twenty eight days from the date of impugned judgment and decree. In the limitation petition cause was shown for delay in filing the appeal but the appellate court was not satisfied with the reasons assigned for filing the appeal.

7. In this regard it would be pertinent to mention herein that the legislature has conferred power to the Court to condone the delay so that the cases may be disposed of on merit. The Court in such matters takes a lenient view to condone the delay. In this regard a decision in the case of Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, the Apex Court had held "the expression sufficient cause employed by the legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other Courts in the hierarchy."

8. It has further been held "refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. "Every day"s delay must be explained" does not mean that a pedantic approach should be made. Why not every hour"s delay, every second"s delay ? The doctrine must be applied in a rational common sense pragmatic manner." Similar view was taken in the case of State of Bihar and Others Vs. Kameshwar Prasad Singh and Another,

9. Thus on consideration as discussed above, it is evident that the appellate court has not considered the law laid down by the Apex Court in the matter of condonation of delay and has simply held that no sufficient cause has been shown without assigning any reason. Accordingly, the revision petition is allowed. The order impugned is hereby set aside.