

Md KalimuddIn Vs. State of Jharkhand and ors

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Court : Jharkhand

Decided On : Aug-30-2013

Appellant : Md Kalimuddin

Respondent : State of Jharkhand and ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI C.M.P. No.247 of 2013 with I.A. No.6533 of 2013 Md. Kalimuddin Petitioner Versus State of Jharkhand & Ors. Opp. Parties CORAM : HON'BLE MR. JUSTICE NARENDRA NATH TIWARI For the Petitioner : Mr. Bhanu Kumar, Advocate For the State : J.C. to Sr.S.C.I 19/30.08.2013: In I.A. No. 6533 of 2013, the petitioner has prayed for fixing an early date of hearing of C.M.P. No.247 of 2013. Learned J.C. to Sr.S.C.I appearing on behalf of the opposite parties submitted that though he has no objection for fixing date of early hearing of the petition but the prayer being for restoration of writ petition dismissed for non-compliance of the peremptory order, it can be disposed of even at this stage. Learned counsel for the petitioner also agrees for the same. Heard the parties. In C.M.P. No. 247 of 2013, the petitioner has prayed for restoration of W.P.(S) No. 4133 of 2012. It has been stated that the said writ petition was listed under the heading 'For Orders' on 1.5.2013. By the said order the petitioner was given two weeks' time for removing the defects. The Advocate clerk was accordingly instructed for taking the required step within the prescribed period. But due to his mistake in counting of days, he took step one day after the prescribed time and the

case was dismissed for non-compliance of the order. -2- It has been submitted that there was no wilful delay or negligence on the part of the petitioner. The defects could not be removed, within the peremptory time, under the said circumstance beyond his control. Learned counsel appearing on behalf of the respondents has not disputed the said contentions and has not opposed the application. Considering that there was no deliberate laches and negligence on the part of the petitioner in not removing the defect within the prescribed period, the C.M.P. is allowed. W.P.(S) No.4133 of 2012 is restored to its original file and stage. I.A. No.6533 of 2013, accordingly, stands disposed of. (Narendra Nath Tiwari, J) Shamim/

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