

Panwati Devi and ors. Vs. Nirakhni Devi and ors.

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Court : Patna

Decided On : Feb-03-2005

Judge : R.N. Prasad, J.

Appeal No. : C.R. No. 360 of 2004

Appellant : Panwati Devi and ors.

Respondent : Nirakhni Devi and ors.

Disposition : Petition allowed

Prior history : R.N. Prasad, J. 1. The revision petition has been filed against the order dated 10.2.2004 passed by the 3rd Additional Sessions Judge, Samastipur in Title Appeal No. 49 of 2000 whereby the appeal has been dismissed on the ground of limitation. 2. The plaintiff-opposite party filed Title Suit No. 3 of 1994 before the Munsif. 1st Court, Samastipur for declaration of title and recovery of possession over the suit land measuring an area of six kathas appertaining to Tauzi No. 891, khata No. 501, K

Judgement :

R.N. Prasad, J.

1. The revision petition has been filed against the order dated 10.2.2004 passed by the 3rd Additional Sessions Judge, Samastipur in Title Appeal No. 49 of 2000

whereby the appeal has been dismissed on the ground of limitation.

2. The plaintiff-opposite party filed Title Suit No. 3 of 1994 before the Munsif. 1st Court, Samastipur for declaration of title and recovery of possession over the suit land measuring an area of six kathas appertaining to Tauzi No. 891, khata No. 501, Khesra No. 1275 situated in village Chaksaho district Samastipur.

3. The suit was decreed on 20.12.1999. The petitioners preferred the above mentioned Title Appeal No. 49 of 2000 against the judgment and decree passed by the Munsif, 1st Court, Samastipur in Title Suit No. 3 of 1994. 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.

4. 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.

5. 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 beyond limitation of 286 days. 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 delay in filing the appeal.

6. 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 in a decision in the case of Collector Land Acquisition, Anantnag and Anr. v. Mst. Katiji and Ors., (1987) 2 SCR 387, the Apex Court has 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.'

2. 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 Ors. v. Kameshwar Prasad Singh and Ors., 2000 (3) BLJR 1749 (SC).

8. 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. Petition allowed.

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