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20/12/13

In the High Court of Judicature at Patna

(Letters Patent Appellate Jurisdiction)

I.A. No. _____ of 2013

I N

L.P.A. No. _____ of 2013

(Arising out of C.W.J.C. No. 6927 of 2003).

Nutan Kumari Petitioner-Appellant-petitioner.

Versus

The State of Bihar & others ... Respondent-Respondents-
Respondents.

Sub:-Limitation matter.

I N D E X.

1. Petition with Affidavit.

1 to 8

In the High Court of Judicature at Patna
(Letters Patent Appellate Jurisdiction)

I.A. No. _____ of 2013

I N

L.P.A. No. _____ of 2013

(Arising out of C.W.J.C. No. 6927 of 2005.)

In the matter of
an application under
Section 5 of the Limitation
Act ;

A n d

In the matter of :-

Nutan Kumari Wife of Anmol Kumar Yadav , Resident of
Village - Karuwell Ward no. 14 , Panchayat Vaishakh, P.S.
Kumar Khand District - Madhepura.

.. Petitioner-Appellant-Petitioner

Versus

1. The State of Bihar through the Secretary Social
Welfare Department, Government of Bihar, Patna.

2. The Director, Social Welfare Department Government of Bihar, Patna.
3. The District Magistrate, Madhepura.
4. The District Welfare Officer, Madhepura
5. The Child Development Project Officer, Kumar Khand, District - Madhepura.
6. Sunil Yadav Son of Upendra Prasad Yadav, the then Mukhia of Panchayat Baisarh, P.O. Yaduapatti, P.S. Kumarkhand District - Madhepura.
7. Lisha Anand Wife of Sushil Yadav, Resident of of Village Karuveli Panchayat Baisarh, P.O. Yaduapatti P.S. Kumar Khand District - Madhepura.

... Respondent - Respondent - Respondent

To

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and her companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner above named ;

Most Respectfully Sheweth :-

1. That his this limitation petition is being filed for condoning the delay in filing L.P.A. as pointed out by the office of this Hon'ble Court during Stamp reporting i.e. total 3 years 275 days which was expired on 14.12.2009 itself and the L.P.A. filed by the appellant on 3/10/13 against the order dated 13.11.2009 passed in C.W.J.C. No. 6927/2005.
2. That no limitation petition has been filed in the instant Letters Patent appeal by the appellant earlier.
3. That the Appellant was the petitioner of C.W.J.C. No. 6927 of 2005.
4. That the appellant-petitioner is the house hold Pardanasin Lady who appointed her lawyer before the Hon'ble Court to file writ application and time to time seeking information about the progress of the case but always replied by him that the case is pending for hearing on admission.

5. That the appellant - petitioner had said on several occasions that the case is remained pending but he never said even that the case is being argued ^{-taken up for} _{next} before this Hon'ble Court.

6. That the order dated 13.11.2009 passed in C.W.J.C. No. 6927/2005 shows that her conducting lawyer had present in the Court but unaware from the latest instruction of the Client or the factual aspect of the case.

7. That the appellant - petitioner was fully unaware with the order passed by this Hon'ble Court on 13.11.2009 passed in C.W.J.C. No. 6927/2005. She did not communicated/informed by her conducting lawyer about the result of the case by means of any reliable or unreliable sources and she is in complete dark about the order dated 13.11.2009 passed in C.W.J.C. No. 6927/2005 passed by a Single Judge Bench Comprising of Hon'ble Mr. Justice Mihir Kumar Jha.

8. That the Private respondent was regu-

regularly doing duty as usual so no cause of action for the appellant - petitioner about any order as a source of information through the activities of other side.

9. That the Respondent - Authorities was duty bound as per order dated 13/11/2009 passed in C.W.J.C No. 6927/2005 for implementation of the aforesaid order of this Hon'ble Court which would also become a source of information about the said order but the respondent authorities were kept mum about the implementation of the said order in such circumstances the appellant - petitioner who is a house hold Pardanasin Lady was unknown about the order impugned dated 13.11.2009 of this Hon'ble Court.

10. That the appellant - petitioner when got knowledge about the order, She immediately rushed to the department concern but they ^{were} ignored to give any information. She want to find out from her lawyer about the result but her ^{lawyer} was out of Station then she engaged another lawyer to find out the position of the case

who has executed the order dated 13/11/2009 on 02/07/2013

11. That the appellant-petitioner immediately thereafter file representation with the order of this Hon'ble Court on 23/7/2013 before the Child Development Project officer, Kumar Khand District - Magistrate, Madhepura due to enactment of E.D.P.C. Kumar Khand, Madhepura. *she file representation to DM, Madhepura*

12. That thereafter she decided to file L.P.A. as advised by the lawyer concern and entrusted him with all documents get-back from previous conducting lawyer in writ application.

13. That after preparation she is able to file this Letters Petant Appeal on 3/10/2013.

14. That there is no latches on the part of appellant - petitioner but due to unavoidable circumstances with this Pardanasin house hold lady and communication-Gape this Letters Petant Appeal has been filed delayed but when she got knowledge about the order she taken immediate steps in the matter and the respondent

authorities has been pleased to take action in the matter on her representation.

It is therefore prayed that your Lordships may kindly be pleased to condone the delay in filing the Letters Petant Appeal against order dated 13.11.2009 passed in C.W.J.C. No. 6923/2005 in the facts and circumstances mentioned in this petition and may kindly be pleased to hear the case on merits for the ends of Justice in the matter.

And/Or

Pass any other order/orders as your Lordships may deem fit and proper.

And for this the appellant petitioner shall ever pray.

Affidavit

I, Nutan Kumari Aged about 43 years, Wife of Anmol Kumar Yadav, Resident of Village- Karwell Ward No. 14, Panchayat Vaisharh, P.S. Kumar Khand District - Madhepura do hereby solemnly affirm and state as follows :-

1. That I am petitioner/Appellant in this case and am well acquainted with the facts and circumstances of the case.

2. That the contents of this petition has been read over and explained to me in Hindi which I fully understood the same.

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20/12/13

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(Letters Patent Appellate Jurisdiction)

L.P.A. No. _____ of 2013

(Arising out of 6927 of 2005.)

Nutan Kumari Petitioner-Appellant.

Versus

The State of Bihar & others Respondents.

I N D E X.

1. Supplementary Affidavit on behalf of
petitioner - Appellant.

1 to 5

In the High Court of Judicature at Patna

(Letters Patent Appellate Jurisdiction)

L.P.A. No. _____ of 2013

(Arising out of 6927 of 2005)

Nutan Kumari Wife of Anmol Kumar Yadav

Resident of Village - Karuveli Ward no. 14,

Panchayat - Vaisharh, P.S. Kumar Khand , District -

Madhepura. Petitioner - Appellant.

Versus

The State of Bihar and others Respondents.

Supplementary Affidavit on behalf of petitioner-Appellant

I, Nutan Kumari aged about 43 years Wife of Anmol Kumar Yadav, Resident of Village - Karuveli, Ward no. 14, Panchayat Vaisarh, P.S. Kumar Khand District - Madhepura, do hereby solemnly affirm and state as follows :-

1. That I am the petitioner-Appellant in this case as such am well acquainted with the facts and

circumstances of the case.

2. That the petitioner-appellant has filed this Letter Patent Appeal against the order dated 13.11.2009 passed in C.W.J.C. No. 6927/2005.

3. That for the removal of Defect no. 1 pointed out dated 14/11/2013 this supplementary Affidavit is being filed.

4. That aggrieved portion are as follows :-
Being aggrieved by and dissatisfied with the order impugned dated 13/11/2009 passed in C.W.J.C. No. 6927/2005 passed by Hon'ble Mr. Justice Mihir Kumar Jha, a sitting Single Judge Bench of this Hon'ble Court who has been disposed of the aforesaid writ application with certain direction and observations which causes injustice to the appellant ; the above noted petitioner-appellant begs to prefer this Memo of Appeal amongst the following -

GROUND S :-

- (i) For that the impugned order passed by the Hon'ble Single Judge is beyond the facts of the case as well as impart injustice to the appellant and is fit to be set aside.
- (ii) For that the Hon'ble Single Judge has not aware with the facts that the appellant-petitioner is not the relative of Mukhiya under the defination of Anganwari Sevika Rules and only villager of the then Mukhia which was not properly considered by the Hon'ble Single Judge Bench either in lack of knowledge about the truth to the learned lawyer of the appellant petitioner or nonconsideration of submission of the learned Lawyer of the appellant-petitioner and wrong consideration of a Misleading submission of the respondent no. 7/5 behalf of the writ petition.

- 22 (iii) For that the appellant-petitioner was completely absent from the order of writ petition~~s~~ passed by this Hon'ble Court due to non-communication.
- (iv) For that the respondent authorities have kept pending disposal of implementation of order of this Hon'ble Court under full knowledge about the order of this Hon'ble Court.
- (v) For that the appellant is being suffered since long due to enaction on the part of State authorities.
- (vi) For that the appellant is the bonafide candidate on the instant post of Anganwari Sevika on the instant centre.
- (vii) For that the impugned order has been passed due to misunderstanding about the factual aspect of the case.
- (viii) For that the other grounds which your

Lordships may be deem fit and proper

5. That this supplementary affidavit will forms the part of Memo of appeal.

6. That the contents of this supplementary affidavit have been read over and explained to me in Hindi which I have fully understood the same.

7. That the contents of this supplementary affidavit are true to my best of knowledge and belief.