

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No.51 of 2019**

1. Madan Kumar
2. Ratan Lal
3. Lal Babu
4. Shyam Babu
5. Ram Babu

... Petitioners

Versus

1. The State of Jharkhand
2. The Deputy Commissioner, P.O. & P.S. Sakchi, Singhbhum East, Jamshedpur
3. The Additional Deputy Commissioner, P.O. & P.S. Sakchi, Singhbhum East, Jamshedpur
4. The Circle Officer, Jamshedpur, P.O. & P.S. Sakchi, District: Singhbhum East
5. The Block Development Officer, Jamshedpur, P.O. & P.S. Sakchi District: Singhbhum East
6. Girdhari Lal Padia

... Opposite Parties

CORAM: HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioners

: Mr. Birendra Kumar, Advocate

For the State

: Ms. Rubi Yadav, A.C. to S.C. II

Order No.03 Dated- 28.06.2019

I.A. No.5510 of 2019

This interlocutory application has been filed with a prayer for condonation of 9 days in filing the instant Civil Miscellaneous Petition.

Learned counsel for the petitioner submits that the petitioners did not know the listing of the case due to bonafide mistake and hence, the facts of the dismissal of the Second Appeal could not be known to the counsel and by the time he came to know about the dismissal of the appeal, the delay of nine days has already occurred. It is then submitted that the petitioners have very good grounds to agitate in the instant Civil Miscellaneous Petition filed with the prayer for readmission of the appeal to its original file and unless the delay of nine days is condoned, they will be highly prejudiced. Hence, it is submitted that the delay of 09 days in filing the instant Civil Miscellaneous Petition be condoned.

Considering the aforesaid facts, the delay of 09 days in filing the instant Civil Miscellaneous Petition is condoned.

This interlocutory application stands disposed of.

(Anil Kumar Choudhary, J.)

C.M.P. No.51 of 2019

Learned counsel appearing for the petitioners submits that S.A. No.507 of 2003 was listed for hearing on 20.12.2018 but due to inadvertence the counsel for the petitioners could not mark the listing of the case and as such the counsel for the petitioners was not aware about the listing of the case in the concerned Court which resulted in dismissal of the said appeal. It is then submitted that the petitioners have very good ground to agitate in the appeal and unless the said S.A. No.507 of 2003 is readmitted to its original file, the petitioners will suffer irreparable loss and injury. It is also submitted that the non-appearance of the counsel for the petitioners in court on the date when S.A. No.507 of 2003 was listed, was neither deliberate nor intentional. Hence, it is submitted that S.A. No.507 of 2003 be readmitted to its original file.

Learned counsel for the State on the other hand opposes the prayer for readmission of S.A. No.507 of 2003 to its original file and submitted that the petitioners have deliberately not appeared on the date of hearing of S.A. No.507 of 2003 only to drag the litigation.

Considering the aforesaid facts, S.A. No.507 of 2003 is directed to be readmitted to its original file subject to payment of cost of Rs.2,000/- by the petitioners to the respondents through the learned counsel of the respondents.

Learned counsel for the petitioners tenders Rs.2,000/- to the learned counsel for the respondents and learned counsel for the respondents receives the same.

Considering the submissions made at the Bar and the facts and circumstances of this case, S.A. No.507 of 2003 is directed to be readmitted to its original file and the same be listed after two weeks.

This Civil Miscellaneous Petition stands allowed.

(Anil Kumar Choudhary, J.)