

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9930 OF 2011
(SPECIAL LEAVE PETITION(C.)NO.3486 OF 2005)

STATE OF BIHAR

APPELLANT

VERSUS

PUKHAN MAHTO

RESPONDENT

O R D E R

Leave granted.

2. We have heard learned counsel for the appellant. The respondent, though served with notice, has not chosen to enter his appearance.

3. This appeal is directed against the judgment and order dated 10.08.2004 passed by the High Court of Judicature at Patna in F.A.No.484 of 1995.

4. The State of Bihar, being aggrieved by the order passed by the Reference Court, had approached the High Court by filing the First Appeal No.484 of 1995. In filing the appeal, there was a delay of just 21 days. For condonation of delay in filing the appeal, an application under Section 5 of the Limitation Act had also been filed. For reasons difficult to sustain, the High Court has refused to condone the delay and consequently, it has rejected the First Appeal.

5. In our opinion, in a matter like this, the High

Court ought to have condoned the delay and heard the appeal on its own merits. Since that had not been done, we cannot sustain the order passed by the High Court. Consequently, we allow the appeal and set aside the order passed by the High Court. We also condone the delay in filing the First Appeal before the High Court. We request the High Court to decide the First Appeal expeditiously on its own merits.

Ordered accordingly.

NEW DELHI;
NOVEMBER 18, 2011

.....J.
(H.L. DATTU)

.....J.
(CHANDRAMAULI KR. PRASAD)



JUDGMENT