

(2018) 09 CHH CK 0153

Chhattisgarh High Court

Case No: Writ Petition (227) No. 557 Of 2013

Brijmohan Agrawal

APPELLANT

Vs

Collector, District Raigarh And
Ors

RESPONDENT

Date of Decision: Sept. 10, 2018

Acts Referred:

- Chhattisgarh Lok Parisar (Bedakhali) Adhiniyam, 1974 - Section 9

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Chandresh Shrivastava, Arun Sao

Final Decision: Disposed Of

Judgement

Sanjay K. Agrawal, J

1. By order dated 02.05.2013 (Annexure - P/1), the appeal filed by the petitioner under Section 9 of the Chhattisgarh Lok Parisar (Bedakhali)

Adhiniyam, 1974 has been dismissed by the Collector, Raigarh on the ground of delay against which this writ petition has been preferred.

2. Learned counsel for the petitioner submits that ex-parte order for possession in favour of respondent No. 4 was passed by the Estate Officer on

21.08.2012 which the petitioner came to know belatedly on 25.02.2013 and thereafter, he took steps for filing the appeal and it was filed on

05.03.2013, as such the Appellate Authority is absolutely unjustified in rejecting the petitioner's appeal.

3. Per contra, learned State counsel would support the impugned order and submits that the order has been passed strictly in accordance with law.

4. I have heard learned counsel for the parties.

5. It is a case of the petitioner that the order dated 21.08.2012 was never communicated to him and as soon as he came to know about it on 25.02.2013 he immediately filed an appeal on 05.03.2013 which was duly supported by the affidavit that has not been controverted by the other side.

Even otherwise, the petitioner will not gain any advantage by deliberately delaying the filing of the appeal.

6. Since, the petitioner has already been dispossessed from the suit property by the Estate Officer and sufficient cause has been shown by the petitioner for delay in filing the appeal, the delay is hereby condoned and the impugned order is set aside. The matter is remitted to the Appellate Authority for hearing and disposal of the petitioner's appeal afresh in accordance with law, subject to payment of cost of Rs.5,000/- to the District Legal Aid Committee, Raigarh, within ten days from the date of receipt of certified copy of this order. The Collector, Raigarh will hear the petitioner's appeal if the petitioner produces the receipt of the said deposit within stipulated time.