

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.489 OF 2009
(arising out of SLP(C)No.2627 of 2005)**

STATE OF BIHAR

....APPELLANT

VERSUS

BADRI NARAYAN MAHTO

....

RESPONDENT

ORDER

Leave granted.

This appeal by way of special leave petition has been preferred against an order dated 16th August, 2004 of the learned Single Judge of the High Court of Judicature at Patna passed in First Appeal(F.A.) No.505 of 1995, by which the High Court had dismissed Appeal of the Appellant merely on the ground of delay of 21 days in filing the said appeal.

Despite service, none appears on behalf of the respondent. Having heard learned counsel for the appellant and going through the application for condonation of delay in filing the F.A., we are satisfied with the explanation offered for the same. We accordingly set aside the impugned order of the High Court, condone the delay in filing the F.A. and restore the Appeal before the High Court to its original number with the request to the High Court to dispose of the aforesaid Appeal on merit at an early date without granting unnecessary adjournment to either of the parties.

This Appeal is accordingly disposed of with no order as to costs.

**.....J.
(TARUN CHATTERJEE)**

**.....J.
(AFTAB ALAM)**

**NEW DELHI,
JANUARY 28, 2009**