

(2002) 02 GUJ CK 0050

In the Gujarat High Court

Case No : Civil Application No. 13217 of 2001 with First Appeal (Stamp Number) No. 1926 of 2001 and Civil Application (ST) No. 5987 of 2001

Ahmedabad Municipal Corp.

APPELLANT

Vs

Kusumbibi Mohmadbhai

RESPONDENT

Date of Decision : 26-02-2002

Acts Referred:

Citation : (2002) 02 GUJ CK 0050

Hon'ble Judges : N.G. Nandi, J;B.J. Shethna, J

Bench : Division Bench

Advocate : K.S. Jhaveri, in Civil application No. 13217 of 2001, for the Appellant;

Final Decision : Dismissed

Judgement

B.J.Shethna, J.—Heard Shri. Kalpesh Jhaveri, learned counsel for the applicant Corporation. There is delay of 83 days in filing the appeal

late against the impugned judgment & order passed by Learned Judge, reducing G.R.V. from Rs.1,09,584/- to Rs.54,000/-. In response to the rule

issued by this Court, Shri. Thakkar appears for the respondents. He submitted that there is delay of more than 169 days and not 83 days as

pleaded in the application.

2. It appears that the judgment was delivered on 5-10-2000, and certified copy was applied for on 8-1-2001, i.e. after a period of 86 days, i.e.

much after expiry of period of limitation of 30 days in filing appeal against the impugned order. Unfortunately, office of this Court has not at all

taken into consideration this, and it had calculated delay of 83 days on the basis that the certified copy of the judgment was received on 12-1-

2001.

3. From the above, it is clear that the applicant Corporation has not even applied for certified copy within the period of limitation. This Court

relying upon the judgment of Hon"ble Supreme Court, in case of Ajit Singh Thakur Singh and Another Vs. State of Gujarat, (para-6) held in

several cases that the delay cannot be condoned in such type of cases as the applicant had initially abandoned the idea of challenging the impugned

order. In the instant case, there is no explanation whatsoever offered by the Corporation as to why certified copy was not applied within the period

of limitation, and why there was a delay of 86 days in applying for certified copy of the judgment. In that view of the matter this application for

condonation of delay is required to be dismissed. Accordingly it is dismissed. Rule discharged, with no order as to costs.

4. As the application for condonation of delay is dismissed, main first appeal is dismissed as having become time barred, along with civil application

for stay.