
(2006) 01 GUJ CK 0066
In the Gujarat High Court

Case No : Special Civil Application No. 4464 of 1996

Bai Dahi and Others

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 21-01-2006

Acts Referred:

Citation : (2006) 01 GUJ CK 0066

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : A.J. Patel, for Petitioner Nos. 1-5, for the Appellant; P.B. Sheth, AGP for Respondent Nos. 1-2, for the Respondent

Judgement

B.J. Shethna, J.—The petitioners have challenged in this petition the impugned order dated 23.2.1996 passed by the Gujarat Revenue Tribunal (for short the Tribunal) in Revision Application No. 10 B.A. 154/95 dismissing the revision application on the technical ground of delay and laches.

2. It is true that there was delay of about 19 months in approaching the Tribunal against the impugned order, but the same was sufficiently explained. It seems that the learned Tribunal, without considering the affidavit filed by the petitioners for condoning delay, rejected the revision application on the hyper technical ground of delay and laches. However, Ms. Sheth, learned AGP tried to support the order of Tribunal by submitting that once the Tribunal has exercised its discretion against the petitioners by not condoning the delay, then this court should not interfere in its supervisory writ jurisdiction. It is true that the Tribunal had jurisdiction, but in my considered opinion, the learned Tribunal materially erred in not exercising its jurisdiction in favour of the petitioners, when the delay was sufficiently explained. In case of Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, , the Hon''ble Supreme Court held that Srefusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided

on merits after hearing the parties.

3. In the instant case, the respondent No. 2-Collector fixed premium of Rs. 9,52,806.30 for the land in question for lifting restriction. The said amount was paid under protest and then the said impugned order dated 28.3.1993 passed by the Collector, Vadodara was sought to be challenged by the petitioner before the Tribunal. However, as stated earlier, purely on technical ground of delay, without assigning any cogent reason, the learned Tribunal dismissed the revision application without going into the merits of the case.

4. Under the circumstances, in my considered opinion, the learned Tribunal committed an error of jurisdiction, therefore, the impugned order dated 23.2.1996 (Annexure-D) is required to be quashed and set aside. Accordingly, it is quashed and set aside and the matter is remitted to the learned Tribunal to decide it on merits strictly in accordance with law, after condoning the delay in filing the revision application. Rule is made absolute with no order as to costs.