
(2000) 04 MP CK 0056
In the Madhya Pradesh High Court
Case No : Second Appeal No. 70 of 2000

Manoramabai

APPELLANT

Vs

Municipal Council and Another

RESPONDENT

Date of Decision : 03-04-2000

Acts Referred:

Citation : (2002) ILR (MP) 326 : (2000) 2 MPHT 383 : (2000) 3 MPLJ 26

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Advocate : Ajay Bagdia, for the Appellant; Vivek Dalal, for the Respondent

Final Decision : Dismissed

Judgement

J.G. Chitre, J.

The petitioner is hereby making a prayer for condonation of delay on the ground that delay has been caused when the petitioner was pursuing a remedy to redress his grievance by filing a writ petition. Shri Bagdia pointed out the judgment and order in W.P, No. 600/99 and submitted that the writ Court has implicitly condoned the delay by making necessary observation. He submitted that in view of all these things, delay needs to be condoned by taking into consideration bona fide mistake of approaching a wrong forum.

Shri Vivek Dalai contended that the stand of bona fide mistake is totally incorrect, and does not wash out the delay. He submitted that before filing the writ petition, there has been already delay of 65 days. In addition to that, he submitted that the petitioner was assisted by a lawyer and, therefore, he should have filed a second appeal when the first appeal was decided against him in the district Court. It is his submission that for the purpose of getting the delay condoned, the writ petition has been filed deliberately and intentionally. He submitted that there is no substance in the delay condonation application.

"Bona fide mistake has to be understood in its proper perspective. "Bona fide"

means that the person was innocently carried away by an innocent mistake. If the approach is for the purpose of camouflaging his misdeeds, it cannot be treated as bona fide act but on the contrary spelling out mala fides. There has to be line of demarcation between bona fide mistakes committed by innocent litigants and camouflaged device used by a tricky litigant for the purpose of covering the misdeeds. By pursuing improper remedy in improper forum or wrong forum, the sins can not be washed out and wrong deeds can not be purged out. The writ Court may have indicated, but that does not mean that the petitioner has acquired the right of getting his delay condoned. 65 days delay was already there when the writ petition was filed and when the writ petition was filed the petitioner was assisted by a lawyer who is supposed to be well versed in legal formalities. The petitioner may or may not be aware of that but the lawyer is supposed to know that after the first appeal has been allowed against the petitioner in district Court, the only remedy which was available was to file second appeal. The cleverness of choosing erroneous forum of approaching the writ Court, can not wash out the delay which was already to the discredit of the petitioner. The bad credit would lead to deficiency and that deficiency has been surfaced by way of delay which is prayed to be condoned.

Delay deserves to be condoned when there happens to be bona fide mistake and that delay has been explained satisfactorily. The necessary things lack in this matter and, thus, delay condonation application will have to be dismissed and it is dismissed. In the result this appeal is also dismissed.