

(1980) 04 SC CK 0066

In the Supreme Court Of India

Case No : Civil Appeals Nos. 874-77 Of 1980

Municipality, Faridkot

APPELLANT

Vs

Chander Bhan and Others

RESPONDENT

Date of Decision : 14-04-1980

Acts Referred:

Citation : (1982) 1 SCC 479

Hon'ble Judges : S. Murtaza Fazal Ali, J; D. A. Desai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.MURTAZA FAZAL ALI, J.-We have heard counsel for the parties and have gone through the judgments of the High Court and that of the District Judge. The order of the High Court and that of the District Judge did not choose to decide the case on merits but the appeal before the Additional District Judge was dismissed on the ground that it was time barred and the High Court summarily rejected the appeal filed against the order of the District Judge. Having gone through the judgment of the District Judge, we feel that the dismissal of the appeal by the District Judge on the technical ground of limitation has resulted in serious miscarriage of justice to the appellant to such an extent that it has shocked our conscience. It appears that five different persons (respondents in this Court) had filed five suits against the present appellant and the suits were decreed against the appellant and in filing appeals before the District Judge the appellant herein had not taken five separate copies of the decrees. The appellant clearly pleaded that it was labouring under a bona fide though mistaken impression that as five appeals arose out of a common judgment there was no need to file other copies of the decree in other appeals particularly when copies of the judgment in other cases had been dispensed with and on a parity of reasoning it thought that one copy of the decree will suffice. In view of these fortuitous circumstances the appellant had applied for one copy of the decree which it thought would satisfy the requirement of the presentation of the appeal

before the District Judge. The District Judge held that the plea taken by the appellant was not bona fide and there was no justification for taking this plea in view of the statutory provisions of the Civil Procedure Code and the requirement thereof that each judgment under appeal must be accompanied with copy of a decree. In our opinion the District Judge took a highly artificial and technical view of the matter and has not considered the plea of the appellant in its true perspective. In these circumstances we are satisfied that the District Judge by dismissing the appeal without going into the merits, and taking a technical view that it was time barred has caused serious injustice to the appellant and the High Court should at least have given thoughtful consideration to the merits of the case when injustice was writ large on the face of the case. Instead, the High Court rejected the appeal in limine. For these reasons we, therefore, allow these appeals and set aside the judgment of the High Court and that of the District Judge and remit the appeals to the Court of the District Judge after condoning the delay and direct it to decide the appeals on merits. This Order will however be subject to payment of cost of Rs 500 in each appeal. Thus, a consolidated sum of Rs 2000 shall be paid by the appellant to the respondent within two months from today failing which the appeals will stand dismissed, without further reference to the Bench.