
(2012) 03 RAJ CK 0043

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 5395 of 2011 (L)

Smt. Dakhu Devi and Others

APPELLANT

Vs

Ranjeet Singh and Others

RESPONDENT

Date of Decision : 27-03-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 9 Rule 9
Limitation Act, 1963 — Section 5

Citation : (2012) 03 RAJ CK 0043

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati

1. The matter comes up on an application no. 4801 dated 11th February, 2011, whereby the appellants have implored to condone the delay of 1796 days in filing the appeal. Learned counsel for the appellants canvassed that the claim petition was dismissed by the learned Tribunal on 12th December, 2005. Thereafter, they filed an application under Order 9 Rule 9 of CPC for restoration of the same, which also came to be dismissed as not maintainable by the Tribunal vide order dated 4th January, 2011. Learned counsel implored that in the interest of justice, the period of limitation, during which the appellants were prosecuting the application under Order 9 Rule 9 of CPC may kingly be excluded and the delay in filing the appeal may be condoned.

2. It is relevant to record that the appellants are required to explain these 1796 days" delay in filing the appeal. The appellants were required to file an appeal within 60 days, whereas they have filed the same after 1796 days of the expiry of period of limitation. The explanation furnished by the appellants appears to be omnibus and general in nature as day to day delay has not been explained. The explanation is required to be specific and not evasive. In the absence of any specific explanation, I find no sufficient ground to condone the inordinate delay

of 1796 days in filing the appeal and thus, the application filed u/s 5 of the Limitation Act deserves to be dismissed, which stands dismissed accordingly. Consequent upon the dismissal of application u/s 5 of Limitation Act, the appeal does not survive and that also stands dismissed.