

(2001) 01 KAR CK 0083
In the Karnataka High Court
Case No : Civil Revision Petition No. 788 of 1997

Sri Nagendraiah

APPELLANT

Vs

Putteeramma and Others

RESPONDENT

Date of Decision : 16-01-2001

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2001) 2 KCCR 789

Hon'ble Judges : T.N. Vallinayagam, J

Bench : Single Bench

Advocate : M.R. Rajagopal, for the Appellant; V.F. Kumbar, for Respondent 1, for the Respondent

Final Decision : Allowed

Judgement

T.N. Vallinayagam, J.—The Civil Revision Petition is against the order refusing the condonation of delay in filing the appeal by the First Appellate Court and I feel it proper to condone the delay and give a chance to the Petitioner to have his say on merits before the Court. I am fortified in my view, by the judgment of the Supreme Court in State of Bihar and Others Vs. Kameshwar Prasad Singh and Another, .

13. In Nand Kishore Vs. State of Punjab, this Court under the peculiar circumstances of the case condoned the delay in approaching this Court of about 31 years. In N. Balakrishnan Vs. M. Krishnamurthy, this Court held that the purpose of Limitation Act was not to destroy the rights. It is founded on public policy fixing a life span for the legal remedy for the general welfare. The primary function of a Court is to adjudicate disputes between the parties and to advance substantial justice. The time limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. The object of providing legal remedy is to repair the damage caused by reason of legal injury. If the explanation given does not smack mala fides or is not shown to have been put forth as apart of a dilatory strategy, the

Court must show utmost consideration to the suitor. In this context it was observed (Para 9 of N. Balakrishnan Vs. M. Krishnamurthy, .

It is axiomatic that condonation of delay is a matter of discretion of the Court; Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be un-condonable due to a want of acceptable explanation where as in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the Court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior Court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first Court refuses to condone the delay. In such cases, the superior Court would be free to consider the cause shown for the delay afresh and it is open to such superior Court to come to its own finding even untrammelled by the conclusion of the lower Court.

14. Looking into the facts and circumstances of the case, as noticed earlier and with the object of doing substantial justice to all the parties concerned, we are of the opinion that sufficient cause has been made out by the Petitioners which has persuaded us to condone the delay in filing the petitions. Dismissing the appeals on technical grounds of limitation would not, in any way, advance the interest of justice but admittedly, result in failure of justice as the impugned judgments are likely to affect not only the parties before us, but hundreds of other persons who are stated to be senior than the Respondents. The technicalities of law cannot prevent us from doing substantial justice and undoing the illegalities perpetuated on the basis of the impugned judgment. However, while deciding the petitions, the reliefs, in the case can appropriately be moulded which may not amount to unsettle the settled rights of the parties on the basis of judicial pronouncements made by the Courts regarding which the State is shown to have been careless and negligent. It is paramount consideration of this Court to safeguard the interests of all the litigants and persons serving the Police Department of the State of Bihar by ensuring the security of the tenure and non-disturbance of accrual of rights upon them under the prevalent law and the rules made in that behalf. Accordingly delay in filing the petitions is condoned.

2. Following the above principles, the Civil Revision Petition allowed.