
(1966) 07 MAD CK 0009

In the Madras High Court

Case No : Appel No. of 1966, S.R. 54693 of 1965

State of Madras

APPELLANT

Vs

Mohammad Sirajudeen

RESPONDENT

Date of Decision : 06-07-1966

Acts Referred:

Limitation Act, 1963 — Section 12(2)

Citation : AIR 1967 Mad 122

Hon'ble Judges : Veeraswami, J;Natesan, J

Bench : Division Bench

Judgement

Veeraswami, J.

(1) The State filed a batch of appeals against different respondents but certified copies of a common judgment were produced only in one of the

appeals and their production in each of the rest of the appeals in the batch was, by an order of this court, dispensed with. On the basis of the

certified copies of the decrees filed in the appeals in which the production of the printed common judgment was dispensed with, those appeals are

found to be out of time.

(2) Learned Government Pleader argues that the endorsement on the printed copies of the common judgment produced in on of the appeals

should be made use of in calculating time for filing appeals under S. 12(2) of the Limitation Act. We do not think that learned Government Pleader

is right in his contention, Section 12(2) of the Limitation Act is explicit and clearly prescribes that in computing the period of limitation, the day on

which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree should be excluded. In other words,

for the purpose of limitation both the time factors will enter into the computation. Where under the rules, the production of a copy of the judgment is dispensed with, still the date of the judgment and the time requisite for obtaining a copy of the decree should be the basis for such computation.

Merely because the production of a certified copy of the judgment is dispensed with, it does not follow from it that we can disregard the date on which the judgment was obtained, and time for limitation computed with reference to the endorsements to be found on a printed copy of the judgment produced in another appeal.

(3) That was the view of a Division Bench of this court in *Avudai Ammal v. Ganapathi*, AIR 1915 Mad 493. There it was held:

An appellant is not entitled to a deduction of the time taken in obtaining copies of judgment to be filed in another connected appeal". This view

was followed by Kailasam J. in C.M.P. No. 296 to 310 of 1966. The time for preferring an appeal should, therefore, be calculated on the

endorsements on the judgments produced in each of the appeals, even where they are filed in a batch and in one of them such copies are produced

and in the rest their production is dispensed with. Where, of course, there are petitions to excuse delay in filing appeals, in such cases, as was

pointed out by the Division Bench of this Court just referred to, discretion of this court in excusing the delay may liberally be exercised, in the particular circumstances.

(4) Our attention is invited to *Mt. Bibi Untul Rasul v. Ramcharan* AIR 1920 Pat 535. There two learned Judges of the Patna High Court were

inclined to the view that in cases like this, time requisite for obtaining a copy of the judgment would be excluded under S. 12(3) in computing the

period of limitation in respect of all the appeals filed by the appellant although only one copy of the judgment is filed for all the appeals. But we find

from the judgment that the practice of the Patna High Court has been that only one certified copy of the judgment in the case of batch of appeals

need be filed. That in our opinion makes a difference. In any case, as we said, we share the view in AIR 1915 Mad 493. The result is the appellant

will have to file petitions for excusing the delay.