(2000) 11 RAJ CK 0003

In the Rajasthan High Court

Case No : Civil Special Appeal (W) No. 598 of 1996

State of Rajasthan and others APPELLANT

Vs

Mishrilal Sharma RESPONDENT

Date of Decision : 23-11-2000

Acts Referred:
Limitation Act, 1963 — Section 5

Citation : (2001) 1 WLC 503 : (2001) 1 WLN 689

Hon'ble Judges : K.S. Rathore, J;Arun Madan and, J

Bench : Division Bench

Advocate : J.K. Singhi, for the Appellant; Priti Sharma, for the Respondent

Judgement

Madan, J.—We have heard this D.B. Civil Special Appeal (Writ) No. 598/96, which has been preferred by the appellants (State of Rajasthan & others) challenging the judgment delivered by learned Single Judge in S.B. Civil Writ Petition No. 839/1984, whereby the learned Single Judge allowed the writ petition by quashing the orders dated 21.7.1987 and 21.1.1984.

(2). This appeal has been preferred, with inordinate delay of 201 days, though an application has been filed u/s 5 of the Indian Limitation Act for condoning the delay.

(3). Section 5 of the Indian Limitation Act stipulates that before the delay is condoned, it is mandatory for the party seeking condonation of delay to explain sufficient cause.

(4). The reasons which have been taken for condoning the delay by the appellants are as under:-

"that the judgment was delivered by the learned Single Judge on 1.2.1993 and certified copy thereof was applied for by the office of the Government Advocate on 3.2.1993. Copy was received by the office of the Government Advocate on 1.5.1993. On an information -sent by the Officer Incharge to the Revenue

Department Group-1 Secretariat about the judgment, the concerned file was sent by the Revenue Group-1 Department to the Law Department for its opinion but it was returned back by the Law Department on 14.6.1993 for want of certified copy of the Government Advocate Office. On receipt of certified copy from the office of Government Advocate in Revenue Section on 3.6.1993 the matter was again processed for opinion of the Law Department which was ultimately received on 22.6.1993. The Revenue Department then took an administrative decision on 27.7.1993 to challenge the judgment by way of appeal. In the meanwhile on 24.7.1993 Collector Tonk was directed to appoint Officer Incharge in the matter for filing of appeal. This order of the Revenue section was received in the office of Collector Tonk (LR) on 31.7.1993 but since the concerned file was with the L.A. Branch and the Sadar Kanoongo being a new appointee the matter was not within his knowledge, no further proceedings in the mailer could possibly by laken till 11.8,1993. On 12.8.1993 the matter was sent to LA for further action but as the L.A. was on long leave from 26.4.1993 and on account of the fact that Sadar Kanoongo remained on tour on 13.8.1993 and 14 and 15th August, 1993, being Holidays, the proposal for appointment of Officer-Incharge was moved on 18.8.1993, which was ultimately issued on 24.8.1993. On 25.8.1994, the record of the case was received by the Officer Incharge but on account of transfer of the A.C.M., the Officer Incharge, he was relieved on 26.8.1993 and therefore on 27.8.1993 the present Officer Incharge S.D..O. was made aware of the matter. On 28.8.1993, Officer Incliarge conlacted the Government Advocate, who asked for the certified copy. 29th & 31st August, 1993, being holidays and thereafter for certified copy the record was examined which was collected from Secretariat on 7.9.1993. On 8.9.1993, again Officer Incharge contacted the,Govern-ment Advocate who after carefully examining the matter required explanation for the delay in filing the appeal. The Officer Incharge again examined the matter and collected reasons for delay in filing the appeal and again contacted the GA. on 16.7.1993, who then after going through all the relevant record, drafted the special appeal which is being filed today."

(5). The learned counsel has placed reliance upon the judgment of the Apex Court in G. Ramegowda, Major vs. Special Land Acquisition Officer, Bangalore, (1), wherein the Apex Court observed that when the Government files appeal, court should have regard to the normal procedural delays in governmental actions,

(6). In our view, this is not a case where the delay in being sought to be condoned on the ground of normal procedural delay in administrative actions for the reasons as have been stated by the petitioner in para No. 1 of his application as aforesaid. The law is well settled that Slate is supposed to act in a more responsible manner as compared to an ordinary citizen in matters of the kind which would require the condonation of delay and with utmost vigilance.

(7). In Union of India vs. Harnam Singh (2), while resolving the correction of date of birth in service records of a Government servant, the Apex Court held as under:-

"The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitalion to expire."

(8). In P.K. Ramchandran vs. State of Kerala (3), the High Court condoned the delay of 565 days in filing the State''s appeal and against the order of condoning 565 days'' delay was challenged by a private party (P.K. Ramchandra) before the Apex Court. The Apex Court held as under:-

"Law of Limitalion may harshly affect a particular parly but it has to be applied with all its rigour when the stalute so prescribe and the Courts have no power to extend the period of limitalion on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained."

(9). In N. Batakrishnan vs. M. Krishnamurthy (4), the Apex Court while observing that law of limitation is founded on public policy, held as under:-

"Law of limilation fixes a life span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending, uncertainty and consequential anarchy."

"It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of tha parties. They are meant to see that parties do not resort to dilatory lactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time."

(10). Learned counsel for the respondent has also opposed the application for condonation of delay for the reasons stated by the petitioner in para 1 of his application, as reproduced above.

(11). Having considered the reasons assigned for the delay in question, in our considered view, it is admitted position that certified copy of the impugned judgment was received on 1.5.1993 by the Government Advocate and it had reached the Revertue Section on 3.6.1993, and the Law Department on 14,6.1993 from where it was returned back and received in the Revenue Deparlment on 22.6.1993. That apart, after having received the file on 22.6.1993 from the Law Departmenl, the Departmenl of Revenue took administrative decision on 27.7.1993 to challenge the impugned judgment, but surprisingly enough, the appeal was filed on or about 20.9.1993. Moreover, even after having taken decision on 27.7.1993 to challenge the impugned judgment, when the Officer Incharge contacted the Government Advocate on 28.8.1993 but without any informations for explaining the delay and without certified copy in his possession. Whatever the circumstances slated for the delay, reproduced above, make it abundantly clear that the needed prompt action was not taken on the part of the officers responsible to file the appeal immediately after the decision having taken to challenge the impugned judgment. Be that as it may, the manner in which the officers have taken time to delay the matter, in our considered view, is certainly not amounted to sufficient cause. Thus, it is not a case of bonafide lapses rather it is a case where the concerned government functionary has acted in most irrespohsible manner and more particularly the Law Deparlment where the file was kept pending for obtaining the opinion of the concerned Officer for filing the present appeal from 1st of May 1993 to 14th of June 1993 and thereafter with the Revenue Department of the State from 22nd June 1993 to 27th of July 1993. Apart from above, even on merits, we do not find it a fit case to entertain this appeal.

(12). As a result of the above discussion the application for seeking condonation of delay must fail and is hereby dismissed. Consequently the special appeal being time barred and devoid of any merit is also dismissed.

