

(2014) 07 RAJ CK 0055

In the Rajasthan High Court

Case No : DB Civil Special Appeal (Writ) No. 923/2013

State of Rajasthan

APPELLANT

Vs

Jodharam

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2014) 07 RAJ CK 0055

Hon'ble Judges : J.K. Ranka, J;Ajay Rastogi, J

Bench : Division Bench

Advocate : A.S. Khangarote, AGC, Advocate for the Appellant; Anil Upman, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

1. Instant intra-court appeal has been filed against the judgment of the Id. Single Judge dt. 04/10/2012.
2. Office has pointed out delay of 287 days in filing the appeal for which application has been filed u/s. 5 of the Limitation Act seeking condonation of delay.
3. We have heard counsel for the parties on the application u/s. 5 of the Limitation Act.
4. The application has not been seriously opposed by counsel for the respondents and we are satisfied with the explanation furnished duly supported with affidavit. The application stands allowed. The delay in filing appeal stands condoned.
5. Heard on merits.
6. Counsel for the appellants submits that the Id. Single Judge disposed of the writ petition without calling upon the respondents in the light of the order passed by the coordinate Bench in SB Civil Writ Petition No. 9772/2011 in the case of Sardar Mal Vs. State of Raj. & ors, decided on 07/08/2012; and granted liberty

to the respondent of submitting representation which was directed to be examined by the respondents obviously in accordance with law.

7. Counsel further submits that the order passed in the case of Sardar Mal came to be challenged by the State of Raj. In DB Civil Special Appeal No. 283/2013 and order dt. 22/05/2013 was passed by the Division Bench partly allowing the appeal and the order of the Id. Single Judge has been modified.

8. Counsel for the respondent on the other hand submits that the Division Bench of this Court in the case of the State of Raj. & ors. Vs. Sardar Mal, referred to supra, while relying upon judgment of coordinate Division Bench, reported in Brij Lal Bundel Vs. State of Rajasthan and Another, has considered the scope of rule 29 & 54 of the RSR in detail.

9. Since the judgment of the Division Bench, reported in Brij Lal Bundel Vs. State of Rajasthan and Another, is a considered judgment examining scope of rule 29 & 54 of the RSR, 1951, without going into controversy on merits what is being projected in the case of Sardar Mal, referred to supra, we consider it appropriate to modify the order of the Id. Single Judge dt. 04/10/2013 impugned herein and grant liberty to the respondent to submit representation in the light of the judgment of this Court reported in Brij Lal Bundel Vs. State of Rajasthan and Another, and if such a representation is made, it is expected from the authority to examine independently in the light of the judgment rendered in the case of Brij Lal Bundel (supra) and decide the same within a period of two months by passing speaking order. Copy of the order may be communicated to the respondent, who, if still feels aggrieved, will be at liberty to avail remedy in accordance with law.

10. With this modification, the instant intra-court appeal stands disposed of.