

(1995) 02 MAD CK 0046

In the Madras High Court

Case No : Writ Appeal No. 144 of 1995 and C.M.P. No. 7833 of 1994

State of Tamil Nadu and others

APPELLANT

Vs

A. Asokan

RESPONDENT

Date of Decision : 23-02-1995

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : AIR 1996 Mad 99

Hon'ble Judges : K.A. Swami, C.J.;Somasundaram, J

Bench : Division Bench

Advocate : R. Muthukumaraswamy, Govt. Pleader, for the Appellant; D. Rajendran, for M/s. M. Venkatachalapathy and S.M. Loganathan, for the Respondent

Judgement

K. A. Swami, C. J.

1. There is a delay of 220 days in filing the appeal. The explanation offered by the appellant is that endorsement regarding the disposal of the writ

petition was not made on the docket by the legal officer concerned, therefore action could not be taken for filing the appeal and the appellant came

to know of it only when the writ petitioner issued a legal notice on 30-7-92 and thereafter, action was taken and the appeal was filed on 3-9-92.

There is an objection filed by the writ petitioner that there is no sufficient cause shown for condonation of delay and that the appellant appeared to

have woke-up only after the receipt of the letter sent by llic writ petitioner and as such, it cannot furnish a ground for condoning the delay. Having

regard to the fact that the disposal of the writ petition was not noted on the docket and also the procedure that is followed by the office of the

Advocate General in these matters, we are of the view that the explanation

should be accepted. We, accordingly, accept the explanation offered and condone the delay.

2. As the appeal involves a short point, we have also heard the appeal on merits.

3. Learned single Judge has allowed the writ petition on the ground that the order issued by the Ex State Government regarding the modification of

lifting the arrack quota came to be issued only on 3-5-1985 and by that time, 18 days have elapsed. Therefore, the licensee did not have sufficient

time to lift the entire quota and to sell the same. Under these circumstances, the learned single Judge has directed that the period up to 15-5-1985

shall also be governed by the order passed by the State Government regarding the supply of arrack and payment of the kist amount on the basis of

the quantity of arrack supplied. The Government Order, in the light of the inadequate supply of arrack, directed that only 20% of the quota should

be supplied that was in existence during the major portion of the period. Under these circumstances, we do not see any justification to interfere

with the order of the learned single Judge. However, we make it clear that the opinion expressed by the learned single Judge on any question of

law is not final, and it is left open to be decided in appropriate case. For the reasons stated above, the writ petition is dismissed, and this writ

Appeal having posted on this day, for admission in the presence of the said Advocates for the parties herein, the Court made the following further

order :--

By an order dated 15-2-95, passed in W.M.P. No. 7833/94, this appeal also stands disposed of, though the appeal was not numbered and

posted before us on that day. Accordingly, the order dated 15-2-95 in G. M. P. No. 7833/94 governs this appeal. We accordingly, dismiss this

appeal in terms of the order in C.M.P. No. 7833/94, dated 15-2-1995. No costs.

4. Order accordingly.