

(2017) 09 AHC CK 0011
In the Allahabad High Court
Case No : 764 of 2013

State Of U.P. & Anr.

APPELLANT

Vs

Kawal Dhari Singh 5676(M/B)2009

RESPONDENT

Date of Decision : 13-09-2017

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

Citation : (2017) 09 AHC CK 0011

Hon'ble Judges : Dr. Devendra Kumar Arora, Rang Nath Pandey

Bench : Division Bench

Advocate : Rakesh Kumar Chaudhary

Judgement

1. The review petitioners have filed the above-captioned review petitions against the judgment and order dated 2.9.2009 passed in Writ Petition No. 5676 (MB) of 2009. These review petitions are accompanied with the application for condonation of delay in filing the review petitions.
2. Heard Mr. Kuldeep Pati Tripathi, learned Additional Advocate General assisted by Mr. Rajesh Tewari, on behalf of the review petitioners and perused the affidavit filed in support of condonation of delay in filing the review petition.
3. Counsel for the review petitioners has drawn attention towards para-9 of the affidavit filed in support of the application for condonation of delay and has submitted that since the delay occurred in filing the review petitions is neither deliberate nor intentional but circumstantial and as such the same is liable to be condoned. The averments made in Para-9 of the affidavit filed in support of application for condonation of delay read as under:- "That the delay occurred in filing the review petitioner is not deliberate and intentional but circumstantial only, therefore, the delay in filing the review petitioner is liable to be condoned."
4. Undisputedly, there is no question of application of the Limitation Act, 1963 to a review application arising out of writ proceeding under Article 226 of the

Constitution of India as the High Court exercises extraordinary discretionary powers under the aforesaid Article. Moreso, the Allahabad High Court Rules, 1952 also do not mention about the limitation in presenting Review Petition arising out of the writ proceedings under Article 226 of the Constitution but it does not mean that a person can file a Review Petition as per his wish whenever he decides in his mind or as advised as permitting belated resort to remedy would cause confusion and public inconvenience and bring, in its train new injustices.

5. Needless to mention that whenever no limitation is prescribed, the action has to be taken with promptitude in a reasonable time. The reasonableness of a period would depend upon the facts and circumstances of the each case and no hard and fast Rule can be made in this regard.

6. Reasonable time refers to the amount of time that is fairly required to do whatever is required to be done, conveniently under the permitted circumstances. In our considered view it should be presented as quickly as possible after the delivery of the judgment. In the case at hand the judgment of which review is sought, was delivered on 2.9.2009 and if reasonable time of thirty days is taken into account, then it ought to have been presented in the Registry by 3.10.2009. Surprisingly, the Review Petitions were presented after four years i.e. in the month of December, 2013 without explaining as to what steps were taken after receipt of the judgment. A bald statement that delay is not deliberate and intentional would not serve the purpose.

7. The court has ample power to refuse from entertaining any application/petition when it is found that there was delay due to negligence or omission by the applicant/petitioner to assert his right at a time where there was acquiescence in order on his part. By a catena of decisions it has been settled that delay defeats equity and court helps only those who are vigilant and do not slumber over their rights.

8. Having regard to our above conclusion, we are convinced that as the review petitioners have approached this Court with inordinate unexplained long delay, therefore, the review petition deserves to be dismissed on the ground of delay and laches.

9. For the reasons aforesaid, both the applications for condonation of delay in filing review petition as well as the Review Petitions are rejected.