

(2006) 09 GUJ CK 0052
In the Gujarat High Court

Case No : Civil Application for Condonation of Delay No. 10397 of 2006 in
Miscellaneous Civil Application (ST) No. 2190 of 2006

Vishnu Dyeing and Printing Mills (P) Ltd. APPELLANT

Vs

Union of India (UOI) RESPONDENT

Date of Decision : 11-09-2006

Acts Referred:

Citation : (2009) 15 STR 654

Hon'ble Judges : Sharad D. Dave, J;B.J. Shethna, J

Bench : Division Bench

Advocate : B.B. Naik, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Heard learned Counsel Shri Bharat Naik for the applicants-original petitioners.

2. The present application is filed by the applicants-original petitioners in above M.C.A. for condoning the gross delay of as many as 675 days.

3. The above M.C.A. is filed in above writ petition i.e. Special Civil Application No. 13706 of 2004 for reviewing and recalling the order dated 18-10-2004 passed by this Court dismissing the writ petition by a reasoned order.

4. Shri Naik, learned Counsel, having practice of more than 30 years standing at the Bar, for the applicants submitted that if the Judgment of the Hon''ble Supreme Court in the matter and the facts were properly brought to the notice of this Court by the learned Counsel, who appeared for the petitioners at the time of hearing of main Special Civil Application No. 13704 of 2004, then this Court would not have dismissed the petition. He submitted that gross injustice is done to the applicants and, therefore, relying on the following decisions of the Hon''ble Supreme Court he submitted that by condoning the delay of 675 days the above MCA be granted and the above main writ petition be restored to the file by reviewing and recalling the order of this Court passed on 18-10-2004:

C.K. Lokesh Vs. P.E. Panduranga Naidu,

M.K. Prasad Vs. P. Arumogam,

Shakuntala Devi Jain Vs. Kuntal Kumari and Others,

State of M.P. and Another Vs. Pradeep Kumar and Another,

5. It is true that substantial justice should be done and not the technical one as held by the Hon"ble Supreme Court. At the same time in the case of P.K. Ramachandran v. The State of Kerala, reported in AIR 1998 SC 227, the Hon"ble Supreme Court has held that "Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have not power to extend the period of limitation on equitable grounds."

6. For condoning the gross delay, the applications have given reasons in Para : 2, 3 & 4. We have carefully gone through the same and we are fully convinced that the said reasons cannot be said to be a cause, much less sufficient cause, for condoning the gross delay of 675 days. The matter being complicated or financial crunch on the part of the applicant's petitioners can never be a ground to condone the gross delay of 675 days.

7. Before parting, we may state that initially the applicant's petitioners had engaged a very raw junior Advocate having practice of hardly few months at the Bar and whatever arguments were advanced by the learned Advocate before the Court was carefully considered and having considered the arguments the petition was dismissed.

8. If the submission of Shri Naik was accepted that this Court had committed an error in dismissing the petition on 18-10-2004 as many important facts and aspects of the case were not brought to the notice at the time of hearing of the main petition, then it amounts to sitting in Appeal over our own order and Judgment dated 18-10-2004. That is not permissible in law. Review of the order can only be made when there is an error apparent on the face of the record.

9. In view of the above, this application is summarily rejected.

10. As this Application for condonation of delay is rejected, the above MCA (st) No. 2190 of 2006 is rejected.