

ITEM NO.8 Court 9 (Video Conferencing) SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 19059/2020

(Arising out of impugned final judgment and order dated 07-02-2019 in MCA No. 248/2016 passed by the High Court Of Judicature At Bombay At Goa)

DEPUTY CONSERVATOR OF FORESTS Petitioner(s)

VERSUS

TIMBLO IRMAOS LTD. & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.107875/2020-CONDONATION OF DELAY IN FILING )

Date :18-12-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE DINESH MAHESHWARI  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Pratap Venugopal, AOR  
Ms. Surekha Raman, Adv.  
Mr. Akhil Abraham Roy, Adv.  
Mr. Vijay Valsan, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

The special leave petition has been filed after a delay of 462 days. This is one more case which we have categorized as a "certificate cases" filed before this Court to complete a mere formality and save the skin of the officers who have been throughout negligent in defending a litigation!

The respondent(s) filed a suit in 1977 before the Additional Sessions Judge, South Goa at Margao against the petitioner claiming ownership rights to property known as "Aforamento Perpetuo" situated at Verlem of Sanguem Taluka. The prayer was made for permanent injunction against the petitioner. The suit was contested by the petitioner but it appears that the written statement was filed only in the year 1980. The suit was ultimately decreed by the ADJ on 25.08.2003. The petitioner filed a first appeal against the said judgment which was admitted by the High Court of Bombay at Goa in the year 2003. The appeal came up for hearing on 10.02.2014 when fresh notices were issued to the parties. On 07.08.2014 the petitioner was unrepresented by the counsel. Thus the matter was adjourned. Ultimately, the appeal was dismissed for non-prosecution on 03.09.2014. Despite this mishap, no application for restoration was filed till 05.01.2016 seeking condonation of delay in moving the restoration application. That application was dismissed by the impugned order dated 07.02.2019.

A perusal of the impugned order shows that once again a reference has been made, as in similar cases of delay by the State to the judgment of this Court in the case of Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors., AIR 1987 SC

1353. A claim was also made that the petitioner should not suffer for the fault of the counsel. The High Court opined that such substantial delay could not be condoned by mere shifting the blame on the counsel as the parties are required to keep track of the matter and there is negligence despite numerous opportunities.

We have dealt with the issue of Government authorities in approaching Courts belatedly as if the Statute of Limitation does not exist for them. While referring to some reasons given for insufficiencies, we observed that the parties cannot keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government, (Collector, Land Acquisition, Anantnag & Anr. (supra). This situation no more prevail and this position had been elucidated by the judgment of this Court in Office of the Chief Post Master General & Ors. vs. Living Media India Ltd. & Anr. (2012) 3 SCC 563.

These aspects have been analyzed by us recently in SLP © No..D. 9217/2020- State of Madhya Pradesh & Ors. vs. Bheru Lal decided on 15.10.2020.

In the aforesaid judgment we have defined "certificate cases" the objective of which is only to put a quietus to the issue by recording that

nothing could be done because the highest Court had dismissed the appeal. We have repeatedly deprecated such practice and process. The irony is that despite observations, no action was ever taken against officers who sit on the file and do nothing.

The matter is further aggravated in the present case and even the present petition is filed with a delay of 462 days and once again the excuse is of change of counsel.

We have repeatedly deprecated such attempts of the State Governments to approach this Court only to complete a mere formality. Learned counsel for the petitioner strenuously contends that there is valuable land involved. In our view, if it was so, then the concerned officers responsible for the manner in defending this petition must be made to pay for it.

We are thus constrained to dismiss the petition as barred by time and impose cost of Rs.15,000/- on the petitioner for wastage of judicial time. We put it to the learned counsel that the cost would have been much greater but for the fact that a young counsel is appearing before us and we have given considerable concession in the costs on that factor alone.

The costs be recovered from the officers responsible for the delay and costs be deposited

within a month with the Supreme court Employees Welfare Fund. The certificate of recovery be also filed within the same period of time.

The special leave petition is dismissed in aforesaid terms.

Pending application stands disposed of.

(CHARANJEET KAUR)  
ASTT. REGISTRAR-cum-PS

(ANITA RANI AHUJA)  
ASSISTANT REGISTRAR