

Supreme Court of India

Kishanganj Municipality And Anr. vs Agrl. Produce Market Committee ... on 20 March, 1998

Equivalent citations: (1998) 5 SCC 609

Bench: S Majmudar, S Kurdukar

JUDGMENT

1. Leave granted. Appeal is heard on merits by consent of learned counsel.

2. The short question is whether the Division Bench of the High Court was justified in dismissing the L.P.A. No. 121/97 by order dated 1-9-1997. The order recites that there is a delay of 29 days in filing the appeal and there is usual practice in the High Court to file appeals under inordinate delay without explaining each day's delay. It is difficult to appreciate this line of reasoning. The High Court had proceeded on the basis that 29 days delay is necessarily inordinate. Such a finding could not have been given without considering the facts leading to the delay. It is obvious that even delay of few days may be inordinate in facts of a case and delay of 100 or more days may not be inordinate in set of facts of other case. It is also interesting to note that the High Court has not even considered the grounds for condoning the delay which appear to have been mentioned in I.A. 531/97. Without considering whether the grounds for condoning the delay were sufficient or not the High Court straightway could not have dismissed the appeal on the supposition that delay of 29 days was necessarily inordinate.

3. Only on this short ground, therefore, it must be held that the L.P.A. was dismissed on the ground of limitation without considering the relevant facts. As the delay is only of 29 days, we would not be required to remand the proceedings for a fresh consideration of the question of delay and also for a proper consideration of sufficiency of grounds for condonation of delay mentioned in I.A. No. 531/97. Instead, we deem it fit in the interest of justice to condone 29 days' delay in filing the appeal. Accordingly, the impugned order is set aside. The delay in filing L.P.A. No. 121/97 is condoned. The High Court is now requested to proceed with the L.P.A. on merits in accordance with law. Consequent upon this order I.A. 2050/97 for staying the order impugned in the L.P.A. will also stand revived and will have to be decided on its own merits.

4. The appeal is allowed accordingly. No costs.