Supreme Court of India

State Of Maharashtra And Ors. vs Nazmunnisa And Ors. on 17 July, 1997

Equivalent citations: (1998) 9 SCC 191

Bench: S Majmudar, M J Rao

ORDER

1. Leave granted.

2. The appeal is taken up for final hearing. The respondents were issued notices in the special leave petition with a clear indication therein that the matter will be finally disposed of at the notice stage itself. Notices issued to them by order of 11-7-1995 have still not been received back. Neither AD cards nor unserved envelopes have come back. Years have passed thereafter. Therefore, a clear presumption arises that they must be deemed to have been served. It is obvious that the respondents have nothing to say in connection with the final disposal of these proceedings. Hence it is not necessary to issue fresh notices to them. We therefore, proceed to dispose of this appeal on merits.

3. The main question that arises for consideration in this appeal is whether the State of Maharashtra was entitled to get the delay of 79 days in filing the first appeal before the High Court condoned. The High Court has taken the view that no sufficient cause was made out for condoning the delay. These are land acquisition proceedings and the appeal was filed with a copy of the judgment in time. However, the copy of the decree was filed later on. That is the cause of the delay as mentioned in paragraph 3 of the SLP which states that under the amended change of law the judgment and the decree bear the same date and when the judgment is filed in time along with the appeal in time, the non-filing of the decree being a technical flaw ought to have been regularised by formal condonation of delay.

4. In our view, the aforesaid contention is well sustained. We, therefore, deem it fit to condone the delay of 79 days involved in filing of the first appeal before the High Court. In the result, the appeal is allowed, the first appeal is restored to the file of the High Court for proceeding further on merits in accordance with law. No costs.