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%15.02.2008

Present: None.

+CM No.2346/2008 in RSA No.46/2008

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1. It is yet another instance of a callous prosecution of an appeal. The second appeal challenges a judgment and a decree in RCA No.38/2005 dated 22.8.2006.

2. The appeal was filed on 28.11.2006. It was filed beyond limitation. It was filed with various deficiencies and defects. Registry returned the appeal after listing the objections on 29.11.2006 i.e. the very next day after it was filed.

3. A week's time was granted for re-filing for the reason the rules of this Court require an appeal or a petition which is returned under objections to be re-filed within a week. The appeal was re-filed on 14.12.2006 but mechanically. All defects continued to exist. The appeal was returned with objections after 2 days and was re-filed for a second time on 1.2.2007. All defects continued to exist. The appeal was returned. For a third time it was re-filed on 23.2.2007. Defects continued. Thereafter, it was returned repeatedly and re-filed

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On 19.5.2007, 26.5.2007, 31.5.2007, 20.7.2007, 29.1.2008,

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7.2.2008, 11.2.2008 and 13.2.2008. It is thus apparent that for an year and 3 months no effective steps were taken to cure the defects. As noted herein above the rules of this Court require a petition to be re-filed within one week. Meaning thereby a defectively filed appeal saves on limitation if re-filed within a week.

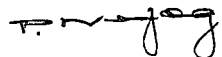
4. In the instant case I find that after 20.7.2007 the next re-filing took place in the month of January 2008.

5. No proper explanation has been given as to why the appeal was filed beyond limitation at the first instance. No proper explanation has been given as to why it took as many as 13 occasions to cure the defects in the deficiently filed appeal. As the delay in filing the appeal as also the delay in re-filing has not been satisfactorily explained, CM No.2346/2008 is dismissed.

RSA No.46/2008

Since delay in filing as also re-filing of the appeal is not condoned the appeal is dismissed as not maintainable.

February 15, 2008
d.k.bainsla


PRADEEP NANDRAJOG, J.