

UNREPORTED

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 986/2006

A.P.KAPUR Appellant

Through: Mr.Abhay Das, Advocate

versus

UOI & ORS. Respondents

Through: Mr.Rajesh Singh, Advocate for R-2

& 3

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

% **26.02.2008**
: **DR. MUKUNDKAM SHARMA, C.J. (ORAL)**
C.M.No.6669/2006 (Delay)

1. This application is filed by the appellant praying for condonation of delay

in filing the present appeal. The application seeking for condonation of delay is contested by the respondents, who have filed their reply raising objection to the prayer regarding condonation of delay in filing the appeal.

2. We have heard learned counsel for the parties on the said application. It is stated by the appellant in his application that the writ petition was disposed of on 23.02.2005. Admittedly, certified copy of the judgment was received by the counsel for the appellant on 17.03.2005. A statement is made in the application that the aforesaid copy was not sent to the appellant by the counsel and accordingly the appellant was under the bonafide belief that the writ petition is still pending before the learned Single Judge. He has also stated that he was not able to contact Mrs. S.T.Siddiqui who was an old lady and was keeping indifferent health and that in the intervening period she had gone to abroad live with her son. Further stand taken in the application by the appellant is that the appellant came to India only in the last week of October, 2005 and tried to enquire about his case, when he was told that the writ petition has been dismissed by order dated 23.02.2005. He was given a copy of order on 12.11.2005, but still did not receive the case file from the counsel and, therefore, the appeal could be filed only on 8.12.2005.

3. However, the respondents have stated in the reply as against the aforesaid statement made by the appellant in his application that Mrs.Siddiqui was seen in the court premises. It is also alleged that there are no particulars

furnished to indicate as to when the counsel had left India and as to when she had returned back. All other statements made in the application are stated to be speculative in nature and to be very vague.

4. We have considered the said pleadings in the light of the submissions made before us. The negligence of the appellant is writ large. On the basis of the records, it appears that the appellant has migrated to USA about 14-15 years back and has left the matter at the hands of the counsel. It is also established from the records that he never bothered to enquire about the progress of the case. Although the writ petition was disposed of on 23.02.2005 and although admittedly he came to know about the disposal of the said case, which is apparent from his own admission, in the month of October, 2005, he did not take any effective steps to get the appeal filed immediately which ultimately came to be filed on 8.12.2005. Even otherwise, he did not enquire about the progress of the case during the period of about 7 months from March to October. No cogent reasons have been given to explain the delay in between 17.3.2005 to October, 2005. As a litigant, it was his duty and obligation to pursue his matter through his counsel and, therefore, he was required to get in touch with his counsel.

5. In our considered opinion, the explanation sought to be given to justify the delay of 265 days in filing the appeal is very vague in nature and cannot be accepted. On going through the records, we are of the considered opinion

that there is a total negligence on the part of the appellant in not pursuing his case and lack of due diligence in prosecuting the matter.

6. We, therefore, find no merit in this application and the same is accordingly dismissed.

LPA 986/2006

In view of the orders passed in C.M.No.6669/2006, the appeal also stands dismissed.

CHIEF JUSTICE

REVA KHETRAPAL, J

FEBRUARY 26, 2008
dc