

Suchitra

**IN THE HIGH COURT OF BOMBAY AT GOA**

**WRIT PETITION NO.660/2023**

DATTARAM BHASKAR DESSAI  
AND ANR.

... PETITIONERS

*Versus*

LIFE INSURANCE CORPORATION  
THR ITS DIRECTOR AND ANR.

... RESPONDENTS

Mr Pradip Sawaikar with Ms Jay Sawaikar, Advocates for the  
Petitioners.

**CORAM: M. S. SONAK &  
BHARAT P. DESHPANDE, JJ.**

**DATED: 9<sup>th</sup> OCTOBER 2023**

**P.C.:**

1. Heard Mr Pradip Sawaikar, who appears along with Ms Jay Sawaikar for the Petitioners.

2. The District Consumer Dispute Redressal Forum has condoned the delay of about nine days in filing a written statement by respondent no.2, who is impleaded as an agent of respondent no.1, i.e. the Life Insurance Corporation (LIC). The LIC has already filed its written statement within the prescribed period.

3. The ground on which condonation was applied was the COVID-19 pandemic and its effect on the second respondent. Against the Forum's order, the petitioners instituted proceedings before the Goa State Consumer Disputes Redressal Commission. By Judgment and Order dated 20.03.2023, the Commission dismissed the appeal by giving detailed reasons.

4. Undeterred, the petitioners instituted a revision petition before the National Consumer Disputes Redressal Commission in New Delhi. Even this was dismissed by the National Commission on 01.08.2023.

5. The petitioners then instituted a Special Leave Petition before the Hon'ble Supreme Court, which was not entertained given the decision of the Hon'ble Supreme Court in the case of *Universal Sompo General Insurance Co. Ltd. v/s. Suresh Chand Jain & Anr. - 2023 SCC OnLine SC 877*, by observing that the remedy to the petitioner lies before the High Court. Accordingly, liberty was granted to the petitioners to withdraw the Special Leave Petition while reserving the petitioners' right to approach the High Court for appropriate relief.

6. Accordingly, the petitioners have instituted the present petition. Mr Sawaikar contends that the Forum had no jurisdiction to condone the delay beyond ninety days. He submits that a jurisdictional issue is involved and, therefore, this petition should be entertained.

7. As noted earlier, respondent no.2 has been impleaded in the complaint before the Commission in her capacity as the agent of the LIC. The LIC has already filed its written statement within the prescribed period of limitation. In this case, on perusing the application seeking condonation of delay, sufficient cause has been shown by respondent no.2. The Forum, State Commission and National Commission have condoned or, in any case, approved the condonation of this nine-day delay in filing the written statement.

8. There was the issue of interpretation of the Hon'ble Supreme Court's decision extending the period of limitation in the context of the COVID-19 pandemic. The Authorities under the Consumer Protection Act have adopted a particular line which cannot be said to be unreasonable. The Authorities have extended the benefit of the Hon'ble Supreme Court's decision to extend the limitation period to the second respondent. This was not a clear case where two views or interpretations were impossible. Even errors within the jurisdiction, particularly when they occasion no serious prejudice or promote substantial justice, need not be interfered with in the exercise of extraordinary jurisdiction. Therefore, if we consider all these aspects cumulatively, we do not think that any case is made out to interfere with the exercise of discretion by all these authorities.

9. Besides, it is well settled that the extraordinary jurisdiction of this Court is not required to be exercised in every case merely because some question of law is raised or even made out.

Ultimately, this is an extraordinary and equitable jurisdiction. There are decisions of the Hon'ble Supreme Court which have taken the view that if justice is the by-product of even an erroneous determination or determination in excess of jurisdiction, this Court, exercising its extraordinary and equitable jurisdiction, is not bound to interfere and erase such justice. In the *State Of Haryana vs Chandra Mani & Ors*<sup>1</sup>, the Hon'ble Supreme Court has held that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred.

10. *In Roshan Deen v. Preeti Lal*<sup>2</sup>, the Hon'ble Supreme Court that it had time and again reminded that the power conferred on the High Court under Articles 226 and 227 of the Constitution is to advance justice and not to thwart it (vide *State of U.P. v. District Judge, Unnao* [AIR 1984 SC 1401]). That the very purpose of such constitutional powers being conferred on the High Courts is that no man should be subjected to injustice by violating the law. The lookout of the High Court is, therefore, not merely to pick out any error of law through an academic angle but to see whether injustice has resulted on account of any erroneous interpretation of law. That, if justice became the by-product of an erroneous view of law, the High Court is not expected to erase such justice in the name of correcting the error of law.

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1 AIR 1996 SC 1623

2 (2002) 1 SCC 100

11. Therefore, upon cumulative consideration of all the above facts and circumstances, we decline to entertain the present petition.

12. This petition is accordingly dismissed without any order for costs.

**BHARAT P. DESHPANDE, J.**

**M. S. SONAK, J.**