



C.M.P.No.17897 of 2024 in
A.S.S.R.No.101501 of 2024

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SATHI KUMAR SUKUMARA KURUP, J.

Learned Counsel for the Appellant submits that the petition had been filed by the Appellant seeking to condone the delay of 564 days in filing the Appeal.

2. It is the contention of the learned Counsel for the Appellant that the delay was caused due to the earlier Counsel on record before the trial Court having been misled by his Advocate Clerk. Earlier Counsel had filed copy application. Advocate Clerk for the earlier Counsel without applying for the certified copy had left the office of the earlier Counsel which caused undue delay to get certified copies. Only when it was informed by the earlier Counsel that Appellant herein had engaged different Counsel and filed copy application. Therefore, the delay.

3. The learned Counsel for the Respondent had filed counter vehemently objecting to the undue delay.

4. Learned Counsel for the Respondent sought reported decision of the



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Hon'ble Supreme Court in the case of ***Basawaraj and another v. Special***

Land Acquisition Officer reported in ***2023 14 SCC 81***, in which it is held a follows.

15. The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the 'sufficient cause' which means an adequate and enough reason which prevented him to approach the court within limit. In case a party is found to be negligent, or for want of bonafide on its part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only with the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature".

Therefore, the litigant has to be cautious and careful in filing within time.

Therefore, delay had to be properly explained.

5. Even though, the learned Counsel for the Respondent had vehemently objected to the allowing the petition by stating the reported decision of the Hon'ble Supreme Court, since it is Appeal, Section 5 of the Limitation Act has to be liberally construed herein. The earlier Counsel's



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Advocate Clerk had misguided the earlier Counsel though he had filed copy application within time but the Advocate clerk had not applied for the copy application on time. The said reasons are found acceptable. Therefore, the delay is condoned on condition of payment of Rs.3,000/- to the Respondent on or before 03.01.2025.

6. Post the case on 07.01.2025.

20.12.2024

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