

A

P.K. RAMACHANDRAN

v

STATE OF KERALA AND ANR.

SEPTEMBER 19, 1997

B

[DR. A.S. ANAND AND K. VENKATASWAMI, JJ.]

Limitation :

C

Miscellaneous First Appeal—Against judgment and decree of Sub-Court in Arbitration Application—Delay of 565 days in filling appeal—High Court condoning the delay—Held, the discretion exercised by High Court was neither proper nor judicious—High Court has not recorded any satisfaction that explanation for delay was either reasonable or satisfactory, which is essential pre-requisite for condonation of delay—Explanation given

D

for the delay cannot be said to be reasonable or satisfactory—Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statutes so prescribe and the Courts have no power to extend the period of limitation on equitable grounds.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6514 of 1997.

E

From the Judgment and Order dated 23.8.96 of the Kerala High Court in C.M.A. No. 1358 of 1996.

T.L. Viswanatha Iyer, Mrs. Prasantha Prasad and N. Sudhakaran, Advs. for the Appellants.

F

P.S. Poti, Mrs. Beena Prakash and G. Prakash, Advs. for the Respondents.

The following Order of the Court was delivered :

Leave granted.

G

The respondent—*State of Kerala and Anr.* filed Miscellaneous First Appeal No. 316/96 against the judgment and decree of the learned Sub Court at Kollam in Arbitration Application No. 108/92. The appeal was barred by 565 days. The respondents filed an application seeking condonation of delay and by the order impugned herein, that delay was condoned. The impugned order

H reads thus :

“This is an application to condone the delay of 565 days in filing an appeal. The petition is seriously opposed by the respondent. But taking into consideration the averments contained in the affidavit filed in support of the petition to condone the delay, we are inclined to allow the petition. The petition stands allowed.” A

It would be noticed from a perusal of the impugned order (supra) that the court has not recorded any *satisfaction* that the explanation for the delay was either *reasonable* or *satisfactory*, which is essential pre-requisite for condonation of delay. B

That apart, we find that in the application filed by the respondent seeking condonation of delay, the thrust in explaining the delay after 12.5.1995, is : C

“at that time the Advocate General’s office *was fed up* with so many arbitration matters equally important to this case were pending for consideration as per the directions of the Advocate General on 2.9.1995.” D

This can hardly be said to be a reasonable, satisfactory or even a proper explanation for seeking condonation of delay. In the reply filed to the application seeking condonation of delay by the appellant in the High Court, it is asserted that after the judgment and decree was pronounced by the learned Sub Judge, Kollam on 30.10.1993, the scope for filing of the appeal was examined by the District Government Pleader, Special Law Officer, Law Secretary and the Advocate General and in accordance with their opinion, it was decided that there was no scope for filing the appeal but later on, despite the opinion referred to above, the appeal was filed as late as on 18.1.1996 without disclosing why it was being filed. The High Court does not appear to have examined the reply filed by the appellant as reference to the same is conspicuous by its absence from the order. We are not satisfied that in the facts and circumstances of this case, any explanation, much less a reasonable or satisfactory one had been offered by the respondent State for condonation of the inordinate delay of 565 days. E F G

Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, H

A succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time. No costs.

R.P.

Appeal dismissed.