

State of Haryana Vs Mangat

C.M. No. 3862-C of 2001 in Regular Second Appeal No. 1673 of 2001

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: May 28, 2001

Acts Referred:

Limitation Act, 1963 " Section 5

Hon'ble Judges: Swatanter Kumar, J

Bench: Single Bench

Advocate: S.K. Vashist, for the Appellant;

Final Decision: Dismissed

Judgement

Swatanter Kumar, J.

This Regular Second Appeal is directed against the judgment and decree passed by the learned Additional District

Judge, Jagadhri, dated 31st March, 2000, while exercising its appellate jurisdiction being the first court of facts and law.

2. The appeal is barred by 215 days and the appeal is accompanied by the application u/s 5 of the Limitation Act for condonation of delay in filing

the appeal. The judgment was pronounced on 30.3.2000 and State claims to have received papers on 6.4.2000, while the appeal in this Court has

been filed on 7.2.2001. The delay has hardly been explained in the application u/s 5 of the Limitation Act. All that is stated is that the papers were

received late in the office of the Advocate General, Haryana. This is not sufficient cause for condonation of delay. The delay of 215 days is

required to be explained properly and a reasonable explanation ought to have come on record, which the appellants has miserably failed to state in

the application. The Hon"ble Apex Court in the case of P.K. Ramachandran Vs. State of Kerala and Another, , held that the limitation must be

applied with all its rigorous. Reference can also be made to the judgment of this case in the case of Gram Panchayat Vs. Prem Singh, .

3. For the reasons afore-stated, I am unable to find that the appellants have shown sufficient cause for condoning the delay in filing the present

appeal. Consequently, the application u/s 5 of the Limitation Act is dismissed. Thus appeal and other applications for condonation of delay in re-

filing the appeal also does not survive.

4. It may be appropriate to mention here that both the Courts below have taken a concurrent view in decreeing the suit of the plaintiff in relation to

the right with regard to tree standing on the land subject matter of the suit. The learned first appellate Court while affirming the fact of findings

recorded by the learned trial Court held as under:-

So in view of the above position, the plaintiff is in possession of the suit land except that portion of the suit land, which on the demarcations

envisaged vide impugned judgment and decree is found to be part of the road strip where the trees planted by Forest Department are standing, but

even in that situation the plaintiff will be entitled to cut and remove the trees on the part of the suit land to which they are found to be standing. But

the plaintiff will have no right to cut and remove the trees which are found to be standing on any other land which does not form part of the suit

land.

5. Even if for the sake of arguments, it is assumed that it was a fit case where this Court should have condoned the delay in filing the appeal, still, it

will be of no avail to the appellant, as the appellant has hardly any case on merit. The above findings of facts are based upon proper appreciation

of evidence. No question of law has either been stated nor raised in the present appeal. Thus in any case, no interference is called for in the

impugned order.

Resultantly, the application as well as appeal stand disposed of.