
(1965) 10 GUJ CK 0020

Gujarat High Court

Case No: None

Maun Hakmichand
Jagjivan

APPELLANT

Vs

Maun Vanmali Jagjivan
and Another

RESPONDENT

Date of Decision: Oct. 1, 1965

Acts Referred:

- Constitution of India, 1950 - Article 133(1)(c), 136, 136(1)(c), 137

Citation: (1966) 7 GLR 215

Hon'ble Judges: V.B. Raju, J

Bench: Single Bench

Judgement

V.B. Raju, J.

The appellant's contention is that his application is within time because of an application for leave to appeal to the Supreme Court which he had filed and he contends that the time spent in pursuing that application should be excluded. His contention is that the application is, in fact, an appeal to the Supreme Court. An application for leave to appeal under Article 136(1)(c) and an application for special leave to appeal under Article 137 of the Constitution should be excluded from the computation of the period of limitation. It is clear in Article 133(1)(c) of the Constitution that an appeal lies to the Supreme Court after the High Court certifies that the case is a fit one for appeal.

2. After the grant of a certificate, a regular appeal has to be filed in the Supreme-Court. It is only then that the appeal is filed the same argument applies in the case of Article 136 of the Constitution. The period, therefore, taken in filing an application for leave to appeal or for a certificate cannot be treated as period taken in appeal and therefore the period cannot be excluded from the limitation. The execution application was, therefore, rightly dismissed. The appeal is dismissed. No order as to costs.