

Anshul Aggarwal Vs New Okhla Industrial Development Auth

Court: Supreme Court Of India

Date of Decision: Aug. 9, 2011

Acts Referred: Limitation Act, 1963 â€” Section 5

Hon'ble Judges: G.S. Singhvi, J; H.L. Dattu, J

Bench: Division Bench

Advocate: S.P. Singh, T.Anamika, A. Chandra Mohan

Final Decision: Dismissed

Judgement

This petition is directed against the order passed by the National Consumer Disputes Redressal Commission (for short, "the National Commission")

whereby the revision filed by the petitioner against the order of the State Consumer Disputes Redressal Commission was dismissed. The petitioner has

also filed an application for condonation of 233 days' delay.

We have heard learned Senior Counsel appearing for the petitioner and carefully perused the record.

The explanation given by the petitioner for delayed filing of the special leave petition is contained in paragraphs 4 to 7 of I.A. No. 1/2011. The same

read as under:

4. That the petitioner was in Kuwait with her husband and school going children. That the National Consumer Dispute Redressal Commission passed

its order on 23-08-2010. The counsel of applicant informed the applicant about the order of the National Commission about a fortnight of passing of

the order. The applicant after a thorough and careful consideration along with her husband decided to bring the matter before the Hon'ble

Supreme Court of India. The applicant thus on 20.11.2010 instructed her counsel from Kuwait to draft and prepare the case for filing t in the

Hon'ble Supreme Court of India. The counsel of the applicant for certain queries asked the applicant to come to India and give certain details

along with other particulars in respect to agreement and payments made to NOIDA.

5. That the applicant was not in a position to come to India immediately as per advice of her counsel, because her school going children were in mid

session, and there were certain other unforeseen difficulties to leave Kuwait immediately as per need and demand of the counsel.

6. That the applicant came in India for a short period from 9th April to 15th of April 2011 for a religious ceremony in family and again went to Kuwait,

but could not contact her Advocate due to Viral Fever while in India.

7. That applicant reached India on 9.7.11 and immediately got the S.L.P. prepared through her counsel by explaining all the queries to her counsel, and

is swearing the affidavit for filing the S.L.P." " ã,

In our opinion, the cause shown by the petitioner for not filing the special leave petition within the prescribed period of limitation is wholly

unsatisfactory. The averments contained in the above reproduced paragraphs show that within a fortnight of passing of the impugned order, the

petitioner had become aware of the same. She instructed her counsel to prepare a draft of the case to be filed in this Court, but did not take steps

necessary for filing the petition. She visited India in April, 2011, but then too she did not bother to contact the counsel. The petitioner's assertion

that she could not do so because she was suffering from viral fever has not been substantiated by any document. Therefore, we do not find any valid

ground much less justification for exercise of power by this Court under Section 5 of the Limitation Act.

It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the

special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the

object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the

orders of the consumer foras.

With the above observations, the application for condonation of delay is rejected and the special leave petition is dismissed as barred by time.