

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 34/2022

Mohan Lal Son Of Late Shri Ladu Ram

-----Appellant

Versus

Suresh Chand Jain Son Of Shri Fateh Chand Jain

-----Respondent

Connected With

1. D.B. Special Appeal Writ No. 37/2022

2. D.B. Special Appeal Writ No. 488/2022

For Appellant(s) : Mr. R.K. Mathur, Senior Advocate,
Mr. Ved Prakash Sogarwal Advocate &
Mr. Ravindra Kumar Advocate on
behalf of Mr. Abhimanyu Singh
Yaduvanshi Advocate.

For Respondent(s) : Mr. Anil Mehta, Additional Advocate
General with Ms. Archana Advocate.
Mr. Kamlakar Sharma, Senior
Advocate with Mr. Madhusudan Singh
Rajpurohit Advocate.
Mr. Yogesh Tailor Advocate on behalf
of Mr. Hemant Taylor Advocate.
Mr. Nitin Jain Advocate.

HON'BLE THE ACTING CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

19/04/2023

Heard on application (IA No.1/2022) filed in D.B. Special Appeal (Writ) No. 488/2022 for waiver of defect No.2 pointed out by the Registry.

Upon due consideration, the application is allowed and the defect No.2 as mentioned in D.B. Special Appeal (Writ) No. 488/2022 is waived.

Heard on applications for condonation of delay in filing of the appeals filed in all the three appeals.

Learned Senior Counsel appearing for appellant, however, would argue that the applications for condonation of delay in filing of the appeals have been filed by way of abundant caution. He would submit that the original order in writ petition was passed on 31.05.2018 against which writ appeal was preferred in which the order was passed on 20.07.2018 disposing off the same with liberty to file review, whereafter, review petition was filed which finally came to be decided on 24.11.2021 and, thereafter, within a period of limitation from order dated 24.11.2021, appeals have been filed.

Learned Senior Counsel appearing for the respondents would bring to the notice of this Court that appeals were filed only by appellants-Mohan Lal & Raju @ Rajulal, but no special appeal was filed by appellant-Prabhu Dayal though he joined the other two appellants in review petition.

Be that as it may, considering that appellants-Mohan Lal & Raju @ Rajulal had preferred special appeals followed by review petition, their appeals are within limitation.

Accordingly, applications filed in D.B. Special Appeal Writ Nos. 34/2022 & 37/2022 for condonation of delay in filing of the appeals are disposed off as superfluous.

As far as application for condonation of delay filed in D.B. Special Appeal Writ No. 488/2022 is concerned, the delay is of only few days. In the interest of justice, we are inclined to condon the delay in filing of the aforesaid appeal.

Accordingly, the application filed in D.B. Special Appeal Writ No. 488/2022 for condonation of delay in filing of the appeal is allowed. Delay is condoned.



[SAW-34/2022]

Matters be listed for admission after one week.

Application (IA No.1/2023) filed in D.B. Special Appeal Writ No. 34/2022 for early listing of the appeal is disposed off.

(ANIL KUMAR UPMAN),J

(MANINDRA MOHAN SHRIVASTAVA),ACTING CJ

SANJAY KUMAWAT-36-38