

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Delay Condonation Application No. 10552 of 2012

Restoration Application No. 769 of 2012

Amendment Application No. 10551 of 2012

IN

Second Appeal No. 1207 of 2001

(Old No. 140 of 1996)

Mai Jeevni Ram Sukh Dev ... Appellant/
Ram Trust Defendant

Vs

Mahant Ashok Paroan Alleged ... Respondent/
& others Plaintiffs

Mr. Lok Pal Singh, Advocate, present for the appellant
Mr. Piyush Garg, Advocate, present for the respondent.

Hon'ble Sudhanshu Dhulia, J.

Heard learned counsel for the applicant/appellant on the Delay Condonation application.

This is the defendant's second appeal. A suit for possession and damages were decreed, which was upheld in appeal and now the defendant/appellant filed the present second appeal before this Court. The second appeal was admitted on 05.07.1996 by the High Court of Judicature at Allahabad. Thereafter, the second appeal has been transferred to this Court under Section 35 of the U.P. Re-organisation Act, 2000, after creation of separate State of Uttarakhand. The matter was listed before the learned Single Judge of this Court on 20.03.2002 and this Court passed the following order:-

“The appeal is dismissed for want of prosecution.
Interim order, if any, is vacated.”

On 29.09.2012, after a lapse of ten years restoration application was filed along with delay

condonation application on the ground that after transferring of the case to this Court, no fresh notices were sent to the parties, therefore, the information regarding the dismissal of the second appeal was not in the notice of the appellant.

Mr. Piyush Garg, Advocate appearing on behalf of the respondent/plaintiff, purely in the interest of justice does not oppose the delay condonation application.

In view of the above, in the interest of justice, the delay condonation application in filing the restoration application is allowed.

Also heard on the restoration application.

The restoration application is allowed. The order dated 20.03.2002 by which the appeal was dismissed for want of prosecution is hereby recalled. The appeal is restored to its original number.

Also heard learned counsel for the parties on the amendment application.

Learned counsel for the respondent has no objection to the amendment application. Learned counsel for the plaintiff waives his right to file objection to the substitution application.

Accordingly, the amendment application is allowed. Let the necessary amendment be incorporated

during the course of the day.

Learned counsel for the appellant seeks two days time to prepare the matter. In the interest of justice, time granted.

Let the appeal be listed on 29.05.2014 in the daily cause list.

Consequently, urgency application 1703 of 2014 stands disposed of.

(Sudhanshu Dhulia, J.)

25.04.2014

Aswal