

ITEM NO.15

COURT NO.3

SECTION IX

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2013

(CC 10057/2013)

(From the judgement and order dated 27/09/2012 in WP No.10997/2011, of The HIGH COURT OF BOMBAY)

ARJUN MARUTI DALVE

Petitioner(s)

VERSUS

VISHWAMBHAR NAMDEORAO JAGTAP & ANR.

Respondent(s)

With I.A.1 (C/delay in filing SLP and c/delay in refiling SLP)

Date: 08/05/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr.Ramchandra N., Adv.

Mr. Varinder Kumar Sharma, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Feeling aggrieved by the High Court's refusal to set aside order dated 27.9.2012 passed by District Judge-1, Solapur who dismissed the application filed by him for condonation of 2 years, 8 months and 27 days delay in filing an appeal against judgment and decree dated 27.3.2008 passed by the trial Court in R.C.S. No.159/2000, the petitioner has filed this petition.

The suit for partition and possession of half share filed by respondent No.1 was decreed by the trial Court. The petitioner challenged the same by filing an appeal. He also filed an application for condonation of more than 2 years and 8 months' delay.

The learned District Judge relied upon the judgment of this Court in Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation (2010) 5 SCC 459 and refused to condone the delay. Second Appeal (Stamp) No. 30077/2011 filed by the petitioner was dismissed as withdrawn with liberty to him to avail other appropriate remedy.

The writ petition filed by the petitioner questioning the order of District Judge-1, Solapur was dismissed by the learned Single Judge who refused to give credence to the petitioner's assertion that his Advocate did not inform him about the decision of the suit. The learned Judge noted that the Advocate had addressed as many as 9 letters to the petitioner some of which were returned with the remark "not claimed" and held that the petitioner's assertion that his Advocate did not inform him is unacceptable. The learned Single Judge also rejected the petitioner's plea that he could not pursue the matter because of various ailments. The learned Judge observed that if the petitioner was unwell, he could not have undertaken business activities at different places.

In our opinion, the detailed reasons recorded by the learned Single Judge in paragraphs 5, 6 and 7 of the impugned order are legally correct and the order under challenge does not suffer from any legal infirmity warranting interference under Article 136 of the Constitution.

The special leave petition is accordingly dismissed.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master