

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).1650-1651/2016
Petition(s) for Special Leave to Appeal (C) No(s).
13040-13041/2013

SHAMIMUDDIN & ORS.

APPELLANT(S)

VERSUS

SHARWAN KUMAR & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

We have heard the matters finally.

The appellants herein have decree in their favour which was passed way back in the year 1971. For execution of the said decree, the Execution Petition was filed. In this Execution Petition many other people came forward who have filed the objections. It is not necessary to take note of those facts. The fact remains that some of the objections were decided against the appellants. The appellants have filed appeal and thereafter the second appeal. The second appeal i.e. ESA No.42 of 2012 was filed within the period of limitation. However, in the said appeal certain objections were raised by the High Court Registry. For removal of these objections, the appellants took some time. It so happened that as there are many respondents/objectors (61 in number), some of those have died. The appellants could not obtain particulars of their legal heirs well in time and this caused delay in re-filing the appeal after

removing the objections. It is also to be taken note of that those respondents who died were the proforma respondents. There were some mistakes/laxity on behalf of the counsel for the appellants. The appellants, thus, filed an application for condonation of delay in re-filing the appeal. This application has been dismissed by the High Court vide impugned order and it has resulted in dismissal of the appeal as well on this ground.

After going through the records, we find that the appellants had given satisfactory explanation for condonation of the aforesaid delay. We have to keep in mind that the delay was not in filing the appeal, which was filed in time, but it is in re-filing the appeal after removing the objections.

It is also significant to mention that two other appeals which are connected matters are pending before the High Court and since the High Court has to necessarily go through the merits of those appeals it would cause no prejudice to the respondents.

We, thus, set aside the impugned order and allow these appeals and condone the delay in re-filing the second appeal before the High Court. Appeal shall be heard on merits with the connected appeals which are pending in the High Court.

.....J.
[A.K. SIKRI]

.....J.
[R.K.AGRAWAL]

NEW DELHI;
FEBRUARY 22, 2016

CORRECTED

ITEM NO.1

COURT NO.12

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).
13040-13041/2013

(Arising out of impugned final judgment and order dated 02/11/2012 in CM No. 12428/2012 02/11/2012 in ESA No. 42/2012 05/11/2012 in ESA No. 42/2012 passed by the High Court Of Punjab & Haryana At Chandigarh)

SHAMIMUDDIN & ORS.

Petitioner(s)

VERSUS

SHARWAN KUMAR & ORS.

Respondent(s)

(with appln. (s) for permission to urge addl. grounds and interim relief and office report)

Date : 22/02/2016 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s)

Mr. M.Z. Chaudhary, Adv.
Mr. Aftab Ali Khan, Adv.
Mr. Rashid Khan, Adv.
Mr. Rabin Majumder, Adv.

For Respondent(s) Mr. Dinesh Kumar Garg, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeals are allowed in terms of the signed order.

Interlocutory Application(s) pending, if any, shall stand disposed of accordingly.

(Ashwani Thakur)
COURT MASTER

(Tapan Kr. Chakraborty)
COURT MASTER

(Signed order is placed on the file)

ITEM NO.1

COURT NO.12

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).
13040-13041/2013

(Arising out of impugned final judgment and order dated 02/11/2012 in CM No. 12428/2012 02/11/2012 in ESA No. 42/2012 05/11/2012 in ESA No. 42/2012 passed by the High Court Of Punjab & Haryana At Chandigarh)

SHAMIMUDDIN & ORS.

Petitioner(s)

VERSUS

SHARWAN KUMAR & ORS.

Respondent(s)

(with appln. (s) for permission to urge addl. grounds and interim relief and office report)

Date : 22/02/2016 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s) Mr. Dinesh Kumar Garg,Adv.

Mr. M.Z. Chaudhary, Adv.
Mr. Aftab Ali Khan, Adv.
Mr. Rashid Khan, Adv.
Mr. Rabin Majumder, Adv.

For Respondent(s) Mr. Dinesh Kumar Garg,Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeals are allowed in terms of the signed order.

Interlocutory Application(s) pending, if any, shall stand disposed of accordingly.

(Ashwani Thakur)
COURT MASTER

(Tapan Kr. Chakraborty)
COURT MASTER

(Signed order is placed on the file)