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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5396 OF 1997@@  
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State of U.P.

Appellant (s)

versus

Heera N Gurnani & Ors.

Respondent (s)

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The learned Single Judge of the High Court at Allahabad in exercise of the jurisdiction under the Companies Act, passed the order on 27.7.1994 declaring that the order passed by the prescribed authority under the U.P.Imposition of Ceiling on Land Holdings Act, 1960 regarding surplus land as nullilty as the property involved therein was under the custody of the Official Liquidator appointed by the Court. This order passed by the High Court against the decision taken by the prescribed authority was challenged by the appellant herein by filing a special leave petition before this Court. In that SLP being SLP(C)No. 9401/1995, this Court observed that the appellant herein ought to have filed an appeal before a Division Bench of the High Court instead

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of filing an SLP. Accordingly, the SLP was dismissed on 1.11.96. Thereafter, the appellant -State preferred Special Appeal 58/1997 before the Division Bench of the High Court at Allahabad. The Division Bench, by the impugned judgment, held that there was inordinate delay in filing the appeal and the appellant had not given any satisfactory or good reason to condone the delay and thus dismissed the Special Appeal. Aggrieved by the said order, the concerned appeal by an Special Leave Petition has been filed.

We have heard learned counsel for both the parties. The learned counsel for the appellant contended that the delay had occurred as the appellant was advised to file an SLP against the order passed by the learned Single Judge. After the dismissal of the SLP, the appellant had got further permission from the Legal Remembrance of the State to file the present appeal and it took time to file an appeal as the file had to pass through various officials authorities. The counsel for the appellant made reference to various cases on the subject viz. State of U.P.and Othersvs. Harish Chandra@@

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and Others, 1996(9)SCC 309, G. Ramegowda, Major and Others@  
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vs. Special Land Acquisition Officer, Bangalore 1988(2) SCC@  
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142 and State of Bihar vs. Ratan Lal Sahu and Others@  
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1996(10) SCC634. The ratio of these decisions is to the@  
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effect that in case of an appeal being filed by the State or institutions, decision is to be taken at various levels which causes delay, and the Courts should consider these aspects also when a decision is taken in the matter of condonation of delay.

The learned counsel for the respondent stated that even after the dismissal of the SLP by this Court, the appellant had not taken any step to file the appeal before the Division Bench. The learned counsel for the respondent also pointed out that subsequent to the decision of the learned Single Judge the mutation of the land had also been effected in favour of the Company.

Having regard to the various facts and circumstances involved in this case and considering the question as to whether a learned Single Judge exercising jurisdiction under Companies Act would be justified in quashing the order passed by the prescribed authority under the U.P. Imposition of Ceiling on Land Holdings Act, 1960, we are of the view that the delay in filing the appeal should have been condoned by the Division Bench of the High Court. Accordingly, we set aside the judgment of the Division Bench, however, in view of

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the long delay the relief can only be granted only on payment of Costs. The appellant is directed to pay Rs.5000/- within three weeks to the Registrar General, Supreme Court of India. The amount so deposited shall be made over to the Supreme Court Legal Services Committee. The Division Bench of the High Court is requested to dispose of the appeal on merits.

The appeal is disposed of accordingly.

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.....J  
(K.G.Balakrishnan)

.....J  
(G.P.Mathur)

New Delhi  
March 06, 2003