

ITEM NO.49

COURT NO.12

SECTION XVII

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

CIVIL APPEAL NO(s). 5312-5313 OF 2013

SUNIL KUMAR DAS

Appellant (s)

VERSUS

GOVT. OF U.P. & ORS.

Respondent(s)

(With appln(s) for condonation of delay in filing appeal and office report)

Date: 17/12/2013 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Appellant(s)

Mr. A. K. Raina, Adv.
Mr. R.S.Rathi, Adv.
Mr. Binay Kumar Das, Adv.

For Respondent(s)

Mr. Irshad Ahmad, AAG
Mr. Gaurav, Adv.
Mr. Abhish Kumar, Adv.

Mr. Devesh Kumar, Adv.

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

Delay condoned.

The appeals are allowed in terms of the Signed Order.

[RAJNI MUKHI]
SR. P.A.

[USHA SHARMA]
COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5312-5313 OF 2013

SUNIL KUMAR DAS

APPELLANT

VERSUS

GOVT. OF U.P. & ORS.

RESPONDENTS

O R D E R

These appeals have been preferred by the appellant against the orders dated 2nd April, 2012 in RA. NO. 02/2012 and order 18th

May, 2012 in R.A. No. 06/2012 in C.A. No. 30 of 2002 passed by the Competition Appellate Tribunal, New Delhi.

By the impugned order dated 18th May, 2012 the Tribunal refused to recall the earlier order dated 2nd April, 2012 by which the earlier review application RA No. 02/12 seeking restoration of C.A. 30 of 2002 was dismissed for non-prosecution. The ground is given that the appellant has failed to show sufficient ground with regard to delay of two years to restore C.A.No. 30 of 2002.

The appellant took plea that he belongs to economically weaker section. The application was filed by him under Section 12B read with Section 36 of MRTP Act before the Monopolistic and Unfair Trade Practice Commission. The lawyer was also engaged and he was waiting to know the date for final hearing. In the meantime, the

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wife of the appellant who was suffering from heart ailment since long and she was taken to the hospital, after a long treatment, she died on 8th February, 2013. The wife was one of the co-allottees of the Housing Scheme at Indirapuram, Ghaziabad.

On 5th July, 2013, this Court issued notice on respondents and passed the following order:

"Issue notice, returnable in four weeks. Dasti, in addition is permitted.

It should be indicated in the notice that the Court is likely to set aside the impugned orders by condoning the delay in filing an application before Tribunal with a direction that the matter may be decided on merits.

A copy of this order be served upon the respondents along with notice."

On notice the respondents have appeared. The learned counsel for the respondents submitted that he has no objection if the case is heard on merit.

In view of the stand taken by the appellant and agreed by the respondents, we set aside the impugned order dated 18th May, 2012 passed by the Competition Appellate Tribunal, New Delhi in R.A. No.06/2012, order dated 2nd April, 2012 passed in R.A. No. 02/2012 and order dated 19th February, 2012 passed in C.A. No. 30/2002 and restore the said C.A. No. 30/2002 to its original file, condone the delay and remit back the

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matter to Competition Appellate Tribunal, New Delhi to decide the application on merits.

The appeals are allowed.

.....J.
[SUDHANSU JYOTI MUKHOPADHAYA]

.....J.
[V. GOPALA GOWDA]

NEW DELHI ;
DECEMBER 17, 2013