

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 (Civil) No(s).19781/2013

(From the judgement and order dated 20/02/2013 in SA No.372/2012 of The HIGH COURT OF M.P AT JABALPUR)

GEETA BAI & ANR.

Petitioner(s)

VERSUS

PREM BAI

Respondent(s)

(With appln(s) for exemption from filing O.T. and with prayer for interim relief)

Date: 11/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s) Mr.Sunil Singh Parihar, Adv.  
Mr. S.K. Sabharwal, A.O.R.

For Respondent(s)

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

The first appeal filed by the petitioners against the judgment and decree of the trial Court was dismissed by the District Judge, Bhopal as barred by time because the petitioners could not offer any satisfactory explanation for the long delay of 4 years and 9 months.

The learned Single Judge of the High Court dismissed the second appeal by recording the following observations:

"Indeed, a bi-party judgment was passed by learned Trial Court on 17.11.2006. As per the appellants own contention they were fully aware about the passing of the impugned judgment and decree which is for possession. However, the appeal was not filed within 30 days from the said date. Surprisingly, when in the month of July 2007 when the notice of execution was served upon first appellant Geetabai although she contacted the learned counsel but did not wait to get the appeal filed and also to obtain the stay order for staying the execution of the decree which is for possession. According to me, very vague allegation has been made that her counsel rest assured that he will get the execution proceedings stayed. Admittedly, till July 2007 she was not having any stay order in her favour but why she waited for more than four years and did not contact her counsel, there is nothing in the application. The ground which has been stated in the application under Section 5 of the Limitation Act that the counsel rest assured him that she need not to worry, cannot be accepted. It appears that in order to mitigate the long delay of near about 5 years a time barred appeal has been filed."

We have heard learned counsel for the petitioners and carefully perused the record.

In our considered view, the learned District Judge and the High Court did not commit any error by refusing to condone the delay of more than four and a half year because the petitioner had not shown sufficient cause for exercise of power by the concerned Court under Section 5 of the Limitation Act.

With the above observation, the special leave petition is dismissed.

(Satish K.Yadav)  
Court Master

(Usha Sharma)  
Court Master