

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) No(s).23560/2010

(From the judgement and order dated 03/07/2009 in SA No.134/2007,CA No.468/2009 of The HIGH COURT OF BOMBAY)

YOUSUF CHAND MULLA THROUGH L.RS.

Petitioner(s)

VERSUS

VIMAL DINKAR PATIL & ORS.

Respondent(s)

(With appln(s) for permission to appear and argue in person and prayer for interim relief and office report)

Date: 19/10/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P. SATHASIVAM
HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s)

Ms. Rajshri Dubey, Adv.
Mr. Sudhanshu S.Choudhari, Adv.

For Respondent(s)

In-Person

UPON hearing counsel the Court made the following
O R D E RHeard learned counsel for the appellants and the Ist
Respondent through Power of Attorney holder.
Leave granted.
The appeal is disposed of in terms of the signed order.[Madhu Bala] [Savita Sainani]
Sr.PA Court Master
(Signed order is placed on the file)IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO..... OF 2012
(@ SPECIAL LEAVE PETITION(C)NO.23560 OF 2010)

YOUSUF CHAND MULLA THROUGH L.Rs.

....APPELLANT(S)

VERSUS

VIMAL DINKAR PATIL & ORS.

....RESPONDENT(S)

O R D E R

Heard learned counsel for the appellants and the Ist
Respondent through Power of Attorney holder.

Leave granted.

The High Court by its impugned order dismissed the second appeal as abated on the ground that the appellants had failed to furnish sufficient cause for the delay of 54 days in filing application to set aside the abatement caused due to the death of appellant before it. The said application is available in the paper book. We have gone through the reasons particularly reasons stated in para 4 and 5. We are satisfied that the appellants have assigned adequate reasons for the same and taking note of the cause shown in the application, we condone the delay of 54 days in filing application for bringing on record the heirs and legal representatives of the appellant in Second Appeal who died on 18th August, 2008.

Though R.No.1 who is appearing in person relied on a decision of this Court reported in AIR 2010 SC 3043 - Balwant Singh (Dead) Vs. Jagdish Singh & Ors., since delay therein was 778 days in filing application for bringing L.Rs, according to us the said decision is not applicable to the case on hand. In our case delay was only 54 days and even for it we find sufficient reasons for the same.

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In view of the above conclusion, we remit the matter to the High Court with a request to restore the second appeal on its file and dispose of the same on merits in accordance with law after affording opportunity to all the parties concerned.

The appeal is disposed of accordingly.

.....J.
[P. SATHASIVAM]

NEW DELHI
19th OCTOBER, 2012

.....J.
[RANJAN GOGOI]