

ITEM NO.54

COURT NO.6

SECTION IV-C

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

SPECIAL LEAVE PETITION (CIVIL)..... Diary No. 201/2020

(Arising out of impugned final judgment and order dated 09-09-2019 in CR No. 20/2015 & 18-10-2019 in RP No. 1417/2019 passed by the High Court Of M.P At Gwalior)

MOHAN SINGH (DEAD) THR. LR.

Petitioner(s)

VERSUS

NARAYAN PRASAD & ANR.

Respondent(s)

(IA No. 92119/2021 - APPLICATION FOR SUBSTITUTION
IA No. 23739/2020 - CONDONATION OF DELAY IN FILING
IA No. 23740/2020 - EXEMPTION FROM FILING O.T.)

Date : 04-12-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. Niraj Sharma, AOR
Ms. Tanya Raizada, Adv.
Ms. Mahima Sharma, Adv.
Mr. G. A. V. Ravi Kumar, Adv.

For Respondent(s) Mr. Abhigya Kushwah, AOR
Mrs. Sunita Yadav, Adv.
Mr. Pradeep Kumar Dubey, Adv.
Mr. Siddharth Rajkumar Murarka, Adv.
Mr. Rohan Rohatgi, Adv.
Mr. Akhilesh Kumar Shrivastava, Adv.
Mr. Manoj Kumar, Adv.

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

Delay condoned.

Heard learned counsel for the petitioner.

The decree passed on 5th April 1994 for recovery of possession in favour of the petitioner was applied for execution on 18th July, 2013. The

Executing Court allowed the application but in exercise of its revisional jurisdiction, the High Court set aside the order of the Executing Court on the ground that decree could not be executed on a date beyond twelve years from the date the same was passed. In the impugned order, the High Court has drawn reference to Section 5 of the Limitation Act, 1963 and given its finding that the said provision was not applicable in case of execution of a decree.

It has been submitted before us by learned counsel for the petitioner that the point taken by him was based on Section 6 of the Limitation Act and this point was also raised in review petition before the High Court, which petition was rejected. On this count, the petitioner's case is that he was under mental disability and three annexures have been relied upon to sustain his case. These are copies of out-door tickets of the Mental Hospital, Gwalior. They appear to be prescriptions but there is no certificate of any medical practitioner or psychiatrist to the effect that the petitioner was under such degree of disability that he could not file an application for execution of decree within the prescribe period. These three out-door tickets are dated 1st January 1994, 7th April 2003 and 5th July, 2003. But two of these documents dated 7th

April, 2003 and 5th April, 2003 specifically carries a caveat:-

"This prescription is not valid for legal proceeding."

In such circumstances, we do not find any reason to entertain the present petitions.

The present petitions are, accordingly, dismissed.

Pending application(s), if any, shall stand disposed of.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)
ASSISTANT REGISTRAR