

A

RAMA RAVALU GAVADE
v.
SATABA GAVADU GAVADE (DEAD)
THROUGH LRS. AND ANR.

B

NOVEMBER 18, 1996

[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

Limitation:

C

Appeal—Application for bringing legal representatives on record—Dismissed as time barred—Meanwhile appeal abated—Held, Courts below were not right in refusing to condone the delay—Delay caused due to lack of proper legal advice—Delay condoned—Abatement stands set aside—Appeal to be decided on merits.

D

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 15085 of 1996.

From the Judgment and Order dated 8.12.94 of the Bombay High Court in C.R.A. No. 632 of 1991.

E

A.S. Bhasme for the Appellant.

V.B. Joshi, Alok Singh and Umesh Bhagwat for the Respondents.

The following Order of the Court was delivered :

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Delay condoned.

Leave granted.

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We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the High Court of Bombay, made on December 8, 1994 dismissing the Civil Revision No. 632/91.

H

The admitted position is that the uncle of the petitioner died pending

Regular Civil Suit No. 51/65 in the Court of the Civil Judge, Senior Division, Chandgad. Since he died pending appeal, it was dismissed on August 4, 1967 as having abated. In Civil Revision No. 632/91 by order dated December 8, 1994, the High Court dismissed the same. The application was filed for bringing the Legal Representatives on record which was also dismissed as no proper explanation for condoning the delay was given. Thus, this appeal by special leave.

In view of the fact that the appellant is an illiterate farmer, the appropriate steps should have been taken by the counsel for the appellant on proper advice. In view of the fact that the counsel has not properly advised the appellant to take necessary steps, delay had occasioned. The High Court, therefore, was not right in refusing to condone the delay. It is brought to our notice that no application has been filed for setting aside the abatement and the appeal also stands abated. In view of the fact that the delay now stands condoned the abatement, also stands set aside.

The appeal is accordingly allowed. The appellate Court is directed to dispose of the appeal on merits within a period of six months from the date of the receipt of the order. No costs.

R.P.

Appeal allowed.