

Kondabai Kunkalika Salunke

Vs

Shrimant Chintamanrao and Others

Civil Appeal No. 536 of 1974

(M. H. Beg, R. S. Sarkaria JJ)

25.03.1974

JUDGMENT

BEG, J. -

1. The only question in this appeal by special leave granted by us last week is whether the application dated February 8, 1973, praying for the setting aside of the abatement of the Second Appeal No. 1110 of 1968 and for condoning the delay in applying for the setting aside of the abatement, filed in the High Court of Bombay, should have been dismissed outright without issuing a notice to the respondents, by a single-word order, "rejected" passed on March 8, 1973.

2. After having been taken through the application, we think that the applicant had stated matters which required to be satisfactorily controverted before such an application could be dismissed. Even in cases where such an application is dismissed for some patent infirmity, the Court concerned should, in our opinion, give its reasons for the dismissal. Such orders are judicial orders subject to a final appeal, for exceptional reasons to this Court. We think that in a case whereupon such an application is dismissed without issuing any notice to the respondents and without stating any reasons at all for the dismissal, a good enough case is made out for the exercise of the jurisdiction of this Court, to interfere, under Article 136 of the Constitution. Consequently we set aside the order of dismissal dated March 8, 1973, and send back the case to the High Court of Bombay for disposal in accordance with law. The parties will bear their own costs. The stay order passed by this Court will remain in operation for a period of two weeks more from today.

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