

Anil Kumar Sahney and Another

Vs

Satish Kumar and Another

Civil Appeal No. 1142 of 1979

(V.R. Krishna Iyer, R.S. Pathak, O. Chinnappa Reddy JJ)

23.11.1979

JUDGMENT

KRISHNA IYER, J. –

1. Having heard Mr. Vohra and Mr. Bhandare, we do not think there is any need to change the earlier order passed by us where we had allowed the appeal.

2. The subject-matter of the appeal is one of court-fee and of delay in filing the appeal. But there is no room for doubt in the light of the happenings set out before us. Actually, the subject-matter of the appeal to the high Court itself is only one of court-fee. The plaint having been rejected on the ground that sufficient Court-fee was not paid, it is all a strom in a tea cup. Apart from that we have examined the matter and feel satisfied that the appeal to this Court should be allowed and the High Court directed to deal with the appeal de novo. The High Court will certainly remember that after all the matter is only one of court-fee and the appellant is willing to pay the alternative court-fee which is a larger sum. Even so the appeal will have to be disposed of by the High Court and so we remit the case back to the High Court directing it to take the appeal on file and pass appropriate orders. If unlimited appellate jurisdiction has been vested in the District Court, the high Court will make the case over to the District Judge's Court which has jurisdiction over the subject-matter.

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