

State of Uttar Pradesh

Vs

Bahadur Singh and Others

Civil Appeal No. 3966 of 1983

(D. A. Desai, Ranganath Misra JJ)

04.04.1983

ORDER

1. Delay condoned. Special leave granted.

2. The narrow and only question with which we are concerned in this appeal is, whether the High Court was justified in dismissing a writ petition under Article 226 and 227 of the Constitution filed by the State of U. P. on the sole ground that the petition had been filed after a long delay. The High Court observed that the usual period of limitation was 90 days for filing the writ petition and computing limitation on this basis held that the petition was delayed by 42 days. Frankly speaking we know of no such period of limitation prescribed by any statute nor any such provision was brought to our notice. The only known principle is that the court may not examine stale causes as the court helps the vigilant and not the indolent. It is a rule devised on the principle of judicial circumspection and has to be applied wisely. And look at the fact situation. The explanation for the delay offered was convincing and acceptable. Further the State of U. P. had preferred a writ petition against the decision of appellate authority under such a law there are no two parties as is the case in a litigation between two private parties wherein each would be prosecuting and watching the proceedings regularly. In a proceeding under land ceiling law, the departmental authority has to be apprised, of adverse decision, and further decision has to be taken whether the case is one required to be taken to higher court. Not that the departmental authorities charged with a duty to implement the law should not be vigilant; but one aspect cannot be overlooked that a departmental authority may delay the moving of higher court for oblique motives and the public interest may suffer if such cause is thrown out merely on the ground of some delay which is also explainable. These are relevant considerations which must enter judicial verdict before rejecting such cause on the ground of delay.

3. The High Court was, therefore, in our opinion not justified in declining to examine the case on merits on the sole ground that the petition was filed after a long delay.

4. We, therefore, set aside the order dismissing the petition on the ground of delay. We accordingly allow this appeal, set side the decision of the High Court dated April 25, 1980 and remit the writ petition to the High Court with a direction that the matter should be admitted to its original number and the writ petition be disposed of on merits as expeditiously as possible.

5. We order accordingly with no order as to costs.

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