

Shankarrao

Vs

Chandrasenkunwar

Civil Appeal No. 1335(N) of 1973

(M. P. Thakkar, B. C. Ray JJ)

29.01.1987

ORDER

1. We are of the opinion that this is a case in which the application for condonation of delay should have been granted for the mere asking of it. The appeal was presented in time though it was lodged in the Court of the learned Additional District Judge instead of lodging it in the Court of the learned District Judge. The memo was returned for presentation to the Court of District Judge and it was presented in his court on that very day. On these facts it is obvious that there was more than sufficient cause for the inadvertent delay which was not intentional (what was the appellant to gain by such delay ?). The court should not have therefore made an injustice-oriented approach and rejected the application for condonation of delay.

2. The appeal is allowed, orders of the courts below are set aside, delay is condoned. The matter will now go back to the learned District Judge who will dispose it of on merits in accordance with law expeditiously after affording reasonable opportunity of hearing to both the sides.

3. No costs.

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