

SUPREME COURT OF INDIA

Rama Ravalu Gavade

Vs.

Sataba Gavadu Gavade (Dead) Through Lrs.

(K Ramaswamy and G Pattanaik JJ.)

18.11.1996

ORDER

Delay condoned.

Leave granted.

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. 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 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 receipts of the order. No costs.