

ALLAHABAD HIGH COURT

Mongey

Vs.

Board of Revenue

Misc. Writ No. 483 of 1956

(Agarwala and M.L. Chaturvedi, JJ.)

28.02.1956

JUDGMENT

Agarwala, J.

1. This is a petition under Article 226 of the Constitution praying that a writ of certiorari or any other suitable writ, direction or order be issued quashing the judgment of the Hon'ble Board of Revenue.

2. The judgment, which is sought to be quashed, is dated 27-2-1954. The applicant comes to this Court two years after the judgment was delivered. The writ petitions under Article 226 of the Constitution should be filed as quickly, after the delivery of judgment of the inferior tribunal, as possible. In Ferris on Extraordinary Legal Remedies it is stated in para 176:

"Thirty days has been held a reasonable time in the ordinary case, and in any cases more than a reasonable time, within which to apply to the inferior court for a stay of mandate, and to duly serve and file the application. One rule laid down as generally applicable is, that as the common-law remedy by certiorari is in the nature of that afforded by writ of error, it will not be issued, or if issued will be quashed or superseded, where, in the absence of special facts or circumstances excusing the delay, the application is not made until after the time within which a writ of error must be prosecuted has elapsed. So it has been held, by analogy to appeal, that the application must be made within the time for prosecuting an appeal, unless the petition discloses circumstances of a special nature requiring an extension of time."

3. We consider that this is a correct statement of the law and in our opinion a period of 90 days, which is the period fixed for appeals to this Court from the judgments of courts below, should be taken as the period for application for the issue of a writ of certiorari, and that time can be extended only when circumstances of a special nature, which are sufficient in the opinion of the Court, are shown to exist. There is no explanation why the petitioner in the present case could not present this application within 90 days. We therefore dismiss this petition on the ground of delay. Petition dismissed.

