

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6655 OF 2008

(Arising out of S.L.P. (C) No.24401 of 2007)

Madivalyya Mathapati

...Appellant(s)

Versus

Shivananda Bhooshetti

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The Trial Court decreed the suit against which order when an appeal was filed, the appellate court dismissed the petition for condonation of delay of four months and twenty seven days in filing the same and consequently dismissed the appeal as barred by limitation. The said order has been confirmed by the High Court. Hence, this appeal by special leave.

Having heard learned counsel appearing on behalf of the parties and perused the records, especially the grounds taken for condonation of delay, we are of the view that the first appellate court was not justified in refusing to condone the delay and dismissing the appeal as barred by limitation and the High court has committed an error in confirming the same.

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Accordingly, the appeal is allowed, impugned orders passed by the first appellate court and the High Court are set aside, delay in filing the appeal before the first appellate court is condoned and that court is directed to dispose of the appeal on merits in accordance with law after giving opportunity of hearing to the parties.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
November 14, 2008.