

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2982 OF 2012

(Arising out of SLP(C) No.9203/2012)

SURESH KUMAR KANTILAL PATEL

Appellant(s)

:VERSUS:

BALKRISHNA LAXMIDAS KOTHARI

Respondent(s)

O R D E R

1. Leave granted.

2. The Trial Court passed an ex-parte decree evicting the appellant-tenant. On appeal filed by the appellant-tenant, the Appellate Court set aside the ex-parte decree and remanded the matter back to the Trial Court for fresh consideration. The respondent- landlord filed a writ petition before the High Court challenging the order passed by the Appellate Court by which the ex-parte decree passed by the Trial Court was set aside the matter was remanded for fresh consideration.

3. The High Court vide its order dated 17.1.2012 upheld the order passed by the Appellate Court and directed the parties to appear before the Trial Court on 21.2.2012 and also directed that written statement shall be filed by the appellant-tenant on 21.2.2012.

4. The appellant-tenant failed to file written statement by the specified date and the Trial Court ordered the suit to proceed without the written statement of the appellant-tenant. The appellant-tenant filed an application for extension of time before the High Court for filing written statement which was dismissed. The appellant has thus approached this Court.

5. We have heard the learned counsel for the parties and perused the impugned judgment passed by the High Court as also the judgments passed by the Courts below.

6. Learned counsel for the appellant-tenant submits that the written statement were ready for filing on 24.2.2012. In the peculiar facts and

circumstances of this case, we are of the considered view that ends of justice would meet if the delay in filing the written statement is condoned subject to payment of costs of Rs.1 lakh by the appellant within four weeks from today. We direct accordingly.

7. This appeal is disposed of with the aforementioned observations and directions.

.....J
(DALVEER BHANDARI)

.....J
(DIPAK MISRA)

New Delhi;
March 21, 2012.

JUDGMENT