

SA-240-2016

(THE STATE OF MADHYA PRADESH Vs SMT BRIJKANTA BAI)

31-08-2016

Parties through their Counsel.

The appellant before this Court has filed this present appeal challenging the judgment and decree dated 17.4.2009 passed by the learned Civil Judge Class I, Shajapur in Civil Suit No.193-A/08. The appeal is also against the judgment dated 3.3.2014 passed by First Addl. District Judge, Shajapur in MJC No.29/2013.

The facts of the case reveal that the plaintiffs have filed a suit for declaration of title as well as for grant of permanent injunction. The judgment was passed on 17.4.2009 and the appellant State preferred the appeal after four years and three months. Along with the appeal the appellant has filed an application for condonation of delay. However, the appellate Court dismissed the application for condonation of delay and also the appeal on 3.3.2014. The present appeal is also filed with a delay of 687 days. The State Government has not explained the day-to-day delay in the matter.

Learned counsel for the respondents has placed reliance upon a judgment delivered in the matter of **Manish Kalani vs. Dilip Kumar**

(M.A.No.67/1999 (I) reported in 2000(II) MPWN note 22 page 34 and his contention is that the appeal was filed before this Court after a delay of more than four years and again the Second Appeal is filed after a delay of 687 days.

This Court has carefully gone through the application for condonation of delay and the application reveals that the impugned judgment has been passed on 3.3.2014 and permission to file an appeal was given by the Law Department on 26.7.2014. Even though the appeal has not been filed in time as the election took place and in the meanwhile the appellant/State did apply for obtaining the certified copy of the order. Learned counsel for the appellant State has failed to explain the day- to-day delay in filing the appeal and no fair and reasonable explanation has been given for condoning the delay. Accordingly, I.A.No.3629/2016 is hereby rejected. Resultantly, the appeal also stands **dismissed.**

Certified copy as per rules.

(S.C.SHARMA)
JUDGE