



**IN THE HIGH COURT OF MADHYA PRADESH**

**AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE JAI KUMAR PILLAI**

**SECOND APPEAL No. 649 of 2022**

***SHRI BADAMATH RELIGIOUS ENDOWMENT SITAMAU AND  
OTHERS***

***Versus***

***DEEPAKGIRI AND OTHERS***

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**Appearance:**

***Shri Abhishek Tugnawat - Advocate for the appellants.***

***Shri Vinay Gandhi - Advocate for the respondent No.1.***

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**Reserved on : 06/11/2025**

**Delivered on : 18/11/2025**

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**J U D G M E N T**

**Heard on the question of admission.**

This second appeal under Section 100 of CPC has been filed by the appellant/plaintiff being aggrieved by the judgment dated 24/09/2021



passed by Vth Additional District Judge, Mandsaur, District Mandsaur (M.P.) in Miscellaneous Judicial case (Civil) No. 6/2021, whereby the judgment and decree dated 30/01/2018 passed by Ist Civil Judge Class-II, Sitamau, Mandsaur Indore (M.P.) in RCSA 10A/2011, was affirmed.

**Facts of the case, in short are as under :-**

2. The plaintiffs had filed a suit seeking a declaration of ownership, permanent injunction, and delivery of possession against the defendants. It is the case of the plaintiff that Plaintiff No. 1 was an ancient religious Math, known as “Badamath,” established around 150 years ago during the rule of Bahadur Singh of Sitamau State. The Math, devoted to promoting Sanatan Dharma, owned various properties granted by the erstwhile ruler for religious purposes. The plaintiffs alleged that Defendant No. 1, Deepakgiri, was wrongly recorded as Mahant in the 1979-80 revenue records while he was still a minor and not a disciple of the then Mahant Dhangiri. They contended that Defendant No. 1 was married, practiced law, and was unfit to act as Mahant. He had allegedly sold parts of the Math’s land to Defendants Nos. 2 and 3 through registered sale deeds in 2010, which the plaintiffs sought to declare void, asserting that these transfers were unauthorized and detrimental to the Math’s interests.

3. The plaintiffs further stated that Defendant No. 1 had threatened to sell additional properties and use the proceeds for personal luxuries,



prompting them to seek court intervention for protection of the Math's assets. They argued that the Mahant held the property only in trust for the religious institution and had no personal ownership rights over it. Consequently, they prayed for a declaration of ownership in favor of the Math, a permanent injunction restraining the defendants from alienating the property, and restoration of possession of the disputed lands.

4. In their written statement, Defendants Nos. 1 and 3 contended that the suit was not maintainable as the plaintiffs had no relation with the Bada Math, which they described as a private family Math. They claimed that Defendant No. 1 Deepakgiri was the duly appointed Mahant and sole owner of all the Math's properties by family tradition spanning over 300 years, wherein each Mahant was succeeded by his son or a relative. It was submitted that Defendant No. 1's ancestors acquired the agricultural lands and houses from their own earnings, unconnected to any public religious trust. The defendants also produced evidence of Deepakgiri's adoption by Mahant Dhangiri in 1972, a succession certificate issued in 1973 recognizing him as Dhangiri's adopted son, and subsequent revenue entries and government certifications confirming his ownership.

5. Defendant No.4 supported the defense, and contended that no documentary evidence proved that the property was ever granted by the Sitamau ruler to the Math as a public endowment. It was stated that the monastery had always been managed by successive Mahants as their



personal property, not as a public trust. The defendants emphasized that the plaintiffs had neither locus standi nor legal authority to challenge the ownership or transactions concerning the said property. They therefore prayed for dismissal of the suit with costs, asserting that the claims were baseless and founded on false allegations. Moreover, the defendant, in his written statement, has categorically asserted that he is the Mahant in possession of the disputed land and, in that capacity, has been continuously sowing and harvesting crops thereon from the time of his ancestors up to the present day. He further contends that he has been regularly paying Lagan(tax) for the said land, and that the Government of Madhya Pradesh has consistently accepted such tax, the receipts of Lagan(tax) are annexed as Exhibit D/18-Exhibit D/31.

6. The learned trial court, after considering the material placed on record and evaluating the evidence of both parties dismissed the suit filed by the appellants/plaintiffs holding that the plaintiffs failed to prove that Shri Bada Math and its properties were part of a public trust. Defendant Deepakgiri successfully proved, through documents, that he was adopted and lawfully appointed as Mahant and heir of the former Mahant, Dhangiri. His name was duly entered in revenue records, and this evidence remained unchallenged. Hence, the court concluded that the disputed lands and buildings rightfully belonged to Deepakgiri, and the plaintiffs had no claim for possession or injunction. Being aggrieved by this judgement and decree, the appellants/plaintiffs preferred an appeal



before the first appellate court, which, after due consideration, dismissed the appeal on the ground of limitation. and affirmed the judgment and decree passed by the trial court.

7. Being aggrieved by which, the appellants/plaintiffs preferred the present second appeal. This court, on 26/06/2023, admitted the appeal on the following substantial question of law:-

***“1. Whether, the learned Judge of the District Appellate Court has rightly dismissed the appeal of the appellant son the ground of limitation despite the fact that the suit itself was filed in a representative capacity and the appellants came to know about dismissal of the suit subsequently?”***

8. The counsel for the appellant pleads that the first appellate court erred in dismissing the appeal solely on the ground of limitation, despite the appellant having filed a proper application for condonation of delay under Section 5 of the Limitation Act, 1963. It is submitted that sufficient cause was shown for the delay, yet the appellate court failed to consider it and did not examine the merits of the case at all. The appellant further asserts that he has suffered actual loss due to the impugned judgment dated 30.01.2018 and possesses valid locus standi to file the present appeal. The respondent's claim that the appellant is merely sentimentally aggrieved is denied, and the cited case by the respondent is distinguished on facts.



9. The counsel for the appellant further pleads that the appellate court wrongly overlooked the appellant's submissions and dismissed the appeal only on technical grounds of limitation without adjudicating the substantive issues involved. It is contended that the appellant was a necessary party to the proceedings and not acting for any ulterior motive or personal gain. Reliance is placed upon judicial precedents, including **State of Bihar v. Kameshwar Prasad Singh (2009) 9 SCC 94, Salikram v. Keshav 2012 (1) MPLJ 93, Maniram v. Mst. Fuleshwar 1996 MPLJ 764, and Nawab Ahmed v. State of Madhya Pradesh (SA No. 312/2016)**, wherein courts have held that appeals should not be dismissed merely on technicalities and that a liberal approach must be adopted in the interest of justice. Hence, it is urged that the dismissal order dated 24.09.2021 be set aside and the appeal be held maintainable.

10. The counsel for respondent pleads that Appellant No. 2 never sought to become a party to the original suit despite a public notice dated 09.02.2011 issued pursuant to the order of the Learned Trial Court. It is contended that Appellant No. 2 has no relationship or connection with Appellant No. 1 or the subject matter of the suit, and therefore lacks locus standi to file the present appeal. The Learned First Appellate Court rightly noted that Appellant No. 2 did not move any application asserting interest in the dispute even after the public notice, which clearly establishes his lack of any right or interest in the matter. Further, the appellant did not obtain the mandatory leave to file the first appeal or demonstrate how he



was aggrieved by the trial court's decree.

11. The counsel for respondent further pleads that since Appellant No. 2 was never a party before the trial court, nor produced any authority or document from Appellant No. 1 permitting him to file the appeal, he cannot be considered an "aggrieved person." The filing of the present appeal, without any legal connection to Appellant No. 1, is alleged to be *mala-fide* and motivated by extraneous reasons to harass Respondent No. 1 and prolong litigation over the disputed property. Hence, it is submitted that the appeal, being devoid of merit and filed with ulterior motives, deserves to be dismissed in limine with exemplary costs.

**Analysis and conclusion :-**

12. Heard learned counsel for the both the parties at length and perused the entire records available.

13. Before dwelling upon the facts of the case, this Court deems it appropriate to first consider whether the First Appellate Court was justified in dismissing the appeal filed by the appellant on the ground of limitation. For this purpose, this Court would like to refer to settled guidelines laid down by the Hon'ble Supreme Court in the case of **Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649 : (2014) 4 SCC (Cri) 450 : (2014) 1 SCC (Civ) 713 : (2014) 2 SCC (L&S) 595 : 2013 SCC OnLine SC 847**, governing condonation of delay under the Limitation Act, 1963 which reads as follows:



**15.** *In this context, we may refer with profit to the authority in **Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corpn.** [**Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corpn., (2010) 5 SCC 459 : (2010) 2 SCC (Civ) 448 : (2010) 2 SCC (Cri) 1291 : (2010) 2 SCC (L&S) 50**] , where a two-Judge Bench of this Court has observed that: (SCC p. 465, para 14)*

*“14. ... The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time.”*

**21.** *From the aforesaid authorities the principles that can broadly be culled out are:*

**21.1.** *(i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.*

**21.2.** *(ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*

**21.3.** *(iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*

**21.4.** *(iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*



**21.5.** (v) *Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*

**21.6.** (vi) *It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.*

**21.7.** (vii) *The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*

**21.8.** (viii) *There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

**21.9.** (ix) *The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

**21.10.** (x) *If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

**21.11.** (xi) *It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

**21.12.** (xii) *The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

**21.13.** (xiii) *The State or a public body or an entity representing*



*a collective cause should be given some acceptable latitude.*

*22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:*

*22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

*22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

*22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

*22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.*

**14.** Moreover, in the case of **Basawaraj v. Land Acquisition Officer, (2013) 14 SCC 81 : 2013 SCC OnLine SC 758** the Hon'ble Supreme Court has elaborately discussed the concept of 'sufficient cause' under Section 5 of the Limitation Act, 1963, which reads as follows:-

*9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and*



*circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, “sufficient cause” means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has “not acted diligently” or “remained inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.*

**11.** *The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible.*

**12.** *It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.*

**15.** *The law on the issue can be summarised to the effect that where*



*a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.*

15. This court is of considered opinion that the first appellate court rightly observed and dismissed the case based on limitation. The trial court had delivered its judgment on January 30, 2018. According to Section 12 of the Limitation Act, 1963 the day on which, the judgment is pronounced is not counted, so the limitation period began on January 31, 2018. Moreover additional time taken to obtain a copy of the judgment is also excluded from the calculation. In this case, the appellant submitted the application on December 1, 2020, and received the copy on December 8, 2020. The limitation period, even after including the time taken to obtain the copy, ended on March 9, 2018. Since the first appeal was filed much later, on December 18, 2020, it was clearly beyond 30-days period permissible under law. The appellant argued that the delay was due to



discovering the fact of dismissal of suit only in November 2020 that the land of Bada Math had been sold and divided into plots, and that this prevented them from filing the appeal sooner. However, the original suit for declaration, permanent injunction, and possession had been filed way back on January 24, 2011, and public notice of the case had been published in a local newspaper. This notice would have informed the public, including the appellant, about the case and its proceedings, making the claim of ignorance insufficient.

**16.** The First appellate court rightly examined the appellant's application under Section 5 of the Limitation Act, which allows appeals to be admitted after the prescribed period if the appellant can show sufficient cause for the delay. In this instance, the appellant's explanation was found to be inadequate. The facts showed that the appellant was aware, or reasonably should have been aware, of the proceedings from the beginning, as public notice had already been issued in 2011. The delay of nearly two years and ten months in filing the appeal was unexplained, and the reasons presented were not considered genuine. Legal principles emphasize that the law assists those who are vigilant and aware of their rights, not those who remain inactive for long periods. Judicial precedent confirms that unexplained delays should not be condoned. Therefore, the appellate court correctly concluded that the appellant had failed to demonstrate sufficient cause under Section 5, and the appeal was correctly dismissed as time barred.



17. The Court is now determined to decide whether the present appellant possessed the requisite locus standi to institute an appeal before the first appellate court, in light of the fact that the appellant was not a party to the representative suit that was adjudicated in the trial court. In order to determine the present moot question, this Court deems it appropriate to refer to the reasoning articulated by the Apex Court in the case of **V.N. Krishna Murthy v. Ravikumar, (2020) 9 SCC 501 : 2020 SCC OnLine SC 664**, which reads as follows:-

*15. Sections 96 and 100 of the Code of Civil Procedure provide for preferring an appeal from any original decree or from decree in appeal, respectively. The aforesaid provisions do not enumerate the categories of persons who can file an appeal. However, it is a settled legal proposition that a stranger cannot be permitted to file an appeal in any proceedings unless he satisfies the Court that he falls within the category of aggrieved persons. It is only where a judgment and decree prejudicially affects a person who is not party to the proceedings, he can prefer an appeal with the leave of the appellate court. Reference be made to the observation of this Court in Jatan Kumar Golcha v. Golcha Properties (P) Ltd. [Jatan Kumar Golcha v. Golcha Properties (P) Ltd., (1970) 3 SCC 573] : (SCC p. 575, para 3)*

*“3. ... It is well settled that a person who is not a party to the suit may prefer an appeal with the leave of the appellate court and such leave should be granted if he would be prejudicially affected by the judgment.”*

*16. This Court in State of Punjab v. Amar Singh [State of Punjab v. Amar Singh, (1974) 2 SCC 70] while dealing with the maintainability of appeal by a person who is not party to a suit has observed thus: (SCC p. 104, para 83)*



*“83. Firstly, there is a catena of authorities which, following the dictum of Lindley, L.J., Securities Insurance Co., In re [Securities Insurance Co., In re, (1894) 2 Ch 410 (CA)] have laid down the rule that a person who is not a party to a decree or order may with the leave of the Court, prefer an appeal from such decree or order if he is either bound by the order or is aggrieved by it or is prejudicially affected by it.”*

**17.** In *Baldev Singh v. Surinder Mohan Sharma* [*Baldev Singh v. Surinder Mohan Sharma*, (2003) 1 SCC 34] , this Court held that an appeal under Section 96 of the Civil Procedure Code, 1908, would be maintainable only at the instance of a person aggrieved by and dissatisfied with the judgment and decree. While dealing with the concept of person aggrieved, it was observed in para 15 as under: (SCC pp. 39-40)

*“15. ... A person aggrieved to file an appeal must be one whose right is affected by reason of the judgment and decree sought to be impugned.”*

**18.** In *A. Subash Babu v. State of A.P.* [*A. Subash Babu v. State of A.P.*, (2011) 7 SCC 616 : (2011) 3 SCC (Civ) 851 : (2011) 3 SCC (Cri) 267] this Court held as under: (SCC pp. 628-29, para 25)

*“25. ... The expression “aggrieved person” denotes an elastic and an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which the contravention is alleged, the specific circumstances of the case, the nature and the extent of the complainant's interest and the nature and the extent of the prejudice or injury suffered by the complainant.”*

**19.** *The expression “person aggrieved” does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised*



*(vide Shanti Kumar R. Canji v. Home Insurance Co. of New York [Shanti Kumar R. Canji v. Home Insurance Co. of New York, (1974) 2 SCC 387] and State of Rajasthan v. Union of India [State of Rajasthan v. Union of India, (1977) 3 SCC 592]*

20. In *K. Ponnalagu Ammani v. State of Madras* [*K. Ponnalagu Ammani v. State of Madras*, 1952 SCC OnLine Mad 300 : (1953) 66 LW 136] , this Court laid down the test to find out when it would be proper to grant leave to appeal to a person not a party to a proceeding against the decree or judgment passed in such proceedings in the following words: (SCC OnLine Mad)

*“Now, what is the test to find out when it would be proper to grant leave to appeal to a person not a party to a proceeding against the decree or judgment in such proceedings? We think it would be improper to grant leave to appeal to every person who may in some remote or indirect way be prejudicially affected by a decree or judgment. We think that ordinarily leave to appeal should be granted to persons who, though not parties to the proceedings, would be bound by the decree or judgment in that proceeding and who would be precluded from attacking its correctness in other proceedings.”*

18. Upon careful examination of the record, it is observed that the appellant has failed to establish that he is an aggrieved party as required under law. The appeal filed before the First Appellate Court primarily alleged collusion between the plaintiffs and defendants in the original suit before the Trial Court. However, no evidence was produced to substantiate this claim. It is a well-settled principle of law, as held in **Sharad Kumar v. State of Madhya Pradesh [AIR 2003 MP 142]**, that every pleading must be supported by evidence, and mere allegations or



speculative statements cannot form the basis of a claim. In the present case, the appellant's assertions of conspiracy and fraud remain unproven and cannot warrant interference with the Trial Court's judgment.

19. Furthermore, during the hearing before this Court, the counsel for the appellant was given ample opportunity to point out any grave error or legal infirmity in the judgment of the Trial Court. Despite this, no specific error was highlighted. The appellant's contention that respondent Deepakgiri was wrongly declared owner of the property without filing a written statement is without merit, as the Trial Court's decision was based on the evidence and facts presented in the suit. The appellant has not demonstrated any procedural or substantive illegality in the trial proceedings that would justify setting aside the judgment.

20. In view of the foregoing, it is evident that the appellant has failed to demonstrate sufficient cause for the prolonged delay of nearly three years and the allegations of collusion and procedural irregularities remain unsubstantiated. No evidence has been produced to support the claims, nor has any grave error in the Trial Court's judgment been shown. The appeal is therefore both time-barred and devoid of merit.

21. Thus, in view of the aforesaid discussion and upon due consideration of material available on record and considering the law laid down by the Hon'ble Apex Court, this Court does not find any illegality in the judgment of the First appellate Court and Trial court, dismissing



the appeal of the appellants/plaintiffs.

22. Resultantly, this Second Appeal fails and is hereby **dismissed**.

23. Pending applications, if any, shall also stands disposed off accordingly.

**(Jai Kumar Pillai)**  
**Judge**

**Aiyer\* PS**