

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.6974-6975/2021  
[@ SLP [C] NOS.3373-3374/2020]

RADHA GAJAPATHI RAJU & ORS.

Appellant(s)

VERSUS

P. MADURI GAJAPATHI RAJU & ORS.

Respondent(s)

O R D E R

Delay in filing application for substitution is condoned.

Application for substitution is allowed.

Leave granted.

The review application filed by the appellants after dismissal of the Special Leave Petition *in limine* has been rejected by the learned Single Judge of the High Court on the ground that there is no satisfactory ground to condone the delay in filing the review petition. Thus, the only short question is whether the time spent before this Court can be good ground for condoning the delay.

Learned senior counsel for the appellants submits that the appellants cannot be deprived of their right to seek a review of the order of the High Court since the dismissal of the Special Leave Petition is *in limine* and refers to the judgment in *Khoday Distilleries Ltd. (Now Known as Khoday India Ltd.) & Ors. v. Sri Mahadeshwara Sahakare Karkhane Ltd.,*

*Kollegal (Under Liquidation) Represented by the Liquidator* - (2019) 4 SCC 376.

Learned counsel for the respondents, on the other hand, submits that the Special Leave Petition was not pending for 722 days and he says so as there were orders passed to remove objections in the Special Leave Petition which the appellants failed to cure despite peremptory nature of orders passed. It is thus, his submission that this period cannot be said to be one where "*Special Leave Petition was pending*". In this behalf, he has placed on record the office report and the orders passed.

On examination of the aforesaid, while what the respondents contend on facts is correct, the fact remains that the delay was condoned and the Special Leave Petition was numbered. Thus, we are of the view that it cannot be said that the time period spent in prosecuting the Special Leave Petition, albeit some delay on part of the appellants, will preclude the appellants from seeking condonation of delay of this period in filing the review application.

We thus, deem it appropriate to allow the application filed by the appellants before learned Single Judge seeking condonation of delay in filing the review application without commenting one way or the other on the issue of merits of the review application.

The appeals accordingly stand allowed limited to the aforesaid extent leaving parties to bear their own costs.

.....J.  
[SANJAY KISHAN KAUL]

.....J.  
[M.M. SUNDRESH]

NEW DELHI;  
NOVEMBER 22, 2021.

ITEM NO.26                      Court 6 (Video Conferencing)                      SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 3373-3374/2020

(Arising out of impugned final judgment and order dated 12-09-2019 in CMP No. 7531/2019 12-09-2019 in REV.A.SR. No. 38072/2019 passed by the High Court Of Judicature At Madras)

RADHA GAJAPATHI RAJU & ORS.                      Petitioner(s)

VERSUS

P. MADURI GAJAPATHI RAJU & ORS.                      Respondent(s)

IA No. 34864/2021 - APPLICATION FOR SUBSTITUTION

IA No. 34865/2021 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN.)

Date : 22-11-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s)      Mr. C.A. Sundaram, Sr. Adv.  
                                    Mr. Subba Reddy, Adv.  
                                    Mr. G. Ananda Selvam, Adv.  
                                    Mr. Shrinik Jain, Adv.  
                                    Ms. Lakshmi Ramamurthy, AOR

For Respondent(s)      Mr. Gautam Narayan, AOR  
R-1 to 4                      Ms. Asmita Singh, Adv.

R-7 & 8                      Ms. Prerna Singh, Adv.  
                                    Mr. Guntur Prabhakar, AOR  
                                    Mr. Guntur Pramod Kumar, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Delay in filing application for substitution is condoned.

Application for substitution is allowed.

Leave granted.

The appeals are allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)

[Signed order is placed on the file]