

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 1654 of 2020**

**[Arising out of SLP (C) No 4622/2020 @ D 9122/2019]**

**M P Housing Board**

**Appellant(s)**

**Versus**

**Premlata Bai and Others**

**Respondent(s)**

**ORDER**

1 Delay condoned.

2 Leave granted.

3 This appeal arises from a judgment of the High Court of Madhya Pradesh dated 31 August 2018 in MCC No 695 of 2017. The predecessor-in-interest of respondent Nos 1 to 7 was the owner in possession of certain land bearing Survey No 42/1 ad-measuring 8.97 acres and Survey No 42/7 ad-measuring 3 acres situated in Village Khandwa Taraf Mali, District Khandwa, Madhya Pradesh. The land was acquired for the public purpose of construction of houses by the M.P. Housing Board, the appellant.

4 An award was made by the Land Acquisition Officer. On 16 October 1988, respondent Nos 1 to 7 moved an application for a reference under Section 18 of the Land Acquisition Act 1894. The Reference was disposed of on 6 November 2001. The appellant filed an appeal against the order of the District Court which was registered as First Appeal No 565 of 2001. The stay application was numbered as MCP No 4208 of 2001. The stay application was disposed of on 11 December 2001. Thereafter, on 5 April 2005, the first appeal was placed before a Division Bench of the High Court for orders on the deposit of paper book costs amounting to Rs 367. The Division Bench granted fifteen days' time to rectify the default in deposit of costs, failing which the appeal was to stand dismissed without reference to the Court. The costs were deposited beyond the period of fifteen days, on 20 June 2005. It appears however that though the costs were deposited, the Registry of the High Court did not place the matter before the Court.

5 On 26 December 2007, the dealing assistant of the Registry of the High Court prepared a note recording the non-compliance and submitted it before the Registrar on the administrative side suggesting that the counsel for the appellant be informed about the dismissal of the appeal due to non-compliance of the peremptory order. It appears however that the words "and counsel be informed accordingly" were struck off. As a consequence, the dismissal of the appeal for non-compliance with the conditional order, did not come to light until a connected appeal was listed for final hearing in 2017. Thereafter, the Board

applied for a certified copy of the relevant administrative order and filed an application for the restoration of the appeal. The High Court by its impugned order dated 31 August 2018 declined to condone the delay on the ground that there was a delay of over eleven years which was not explained.

6 Notice was issued in the present proceedings on 29 March 2019, while recording the submission of the learned counsel for the appellant in the following terms:

“Mr. R.C. Mishra, learned senior counsel appearing on behalf of the petitioner has submitted that there was a conditional order of the High Court in the appeal filed in April 2005, for the deposit of costs of paper book (Rs 367) within 15 days. It was stated that as a matter of fact, costs were deposited on 20 June 2005, though beyond the stipulated period. Learned counsel states that in the Office Note of the Registry of the High Court, it was originally stated that the counsel concerned be informed but this was scored of. As a result, there was a genuine reason as to why a technical default occurred and it should have been condoned.

Issue notice, returnable in six weeks.”

7 The narration of the facts in the earlier part of this order would indicate that the order for the deposit of paper book costs of Rs 367 which was passed on 5 April 2005 was complied with on 20 June 2005, *albeit* beyond the period which was prescribed by the High Court. The dismissal of the appeal was for a technical default. The appellant had a bona fide explanation of being unaware of the fact that the appeal stood dismissed for non-compliance. In fact, it was only when a companion appeal was taken up in 2017 for final hearing that the dismissal of the appeal came to light. The explanation which has been tendered by the appellant is genuine and ought not to have been disregarded.

8 We accordingly allow the appeal and set aside the impugned judgment and order of the High Court dated 31 August 2018. Accordingly, the appeal which has been filed before the High Court, namely, FA No 565 of 2001, shall stand restored to the file of the High Court for disposal on merits.

.....J.  
[Dr Dhananjaya Y Chandrachud]

.....J.  
[Hemant Gupta]

**New Delhi;  
February 17, 2020**

ITEM NO.49

COURT NO.8

SECTION IV-A

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

SPECIAL LEAVE PETITION (CIVIL) Diary No.9122/2019

(Arising out of impugned final judgment and order dated 31-08-2018 in MCC No. 695/2017 passed by the High Court Of M.P. Principal Seat at Jabalpur)

M.P HOUSING BOARD

Petitioner(s)

VERSUS

PREMLATA BAI & ORS.

Respondent(s)

(With appln.(s) for c/delay in filing SLP and exemption from filing O.T.)

Date : 17-02-2020 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. R.C. Mishra, Sr. Adv.  
Mr. Mahendra Kumar, Adv.  
Mr. Ilin Saraswat, Adv.  
Ms. Swati Jain, Adv.  
Mr. Bal Krishan, Adv.  
Mr. Rajnish Kumar Jha, AOR

For Respondent(s)

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

Delay condoned.

Leave granted.

**The appeal is allowed in terms of the signed order.**

**Pending application(s), if any, stand disposed of.**

**(Chetan Kumar)  
A.R.-cum-P.S.**

**(Saroj Kumari Gaur)  
Court Master**

**(Signed order is placed on the file)**