

(NON-REPORTABLE)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO.5149 OF 2009
(Arising out of SLP@No.11105 of 2008)

State of J & K & Ors. -----Appellants

Versus

Mohmad Maqbool Sofi & Ors. -----Respondents

JUDGMENT

TARUN CHATTERJEE, J.

1. Leave granted.

2. This appeal is directed against an order dated 24th of July, 2007 passed by the High Court of Jammu & Kashmir at Srinagar in LPA No.254/2006, by which the High Court had rejected the application for condonation of delay in filing the Letters Patent Appeal and consequent thereupon, the appeal was dismissed on the ground of delay.

3. We have carefully examined the application filed by the State of Jammu & Kashmir, the appellant herein, and the statements made thereunder and also the impugned order. After thorough examination of the application for condonation of delay and the impugned order, we are of the view that the State of Jammu and Kashmir had made out sufficient cause for not filing the Letters

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Patent Appeal within the period of limitation. It is not in dispute that there has been a delay of 97 days in filing the appeal at the instance of the State of Jammu and Kashmir. It is well settled that for the purpose of filing an appeal, the file has to be routed through different departments of the State which require some time to take a final decision whether the Letters Patent Appeal shall be filed against the order of the learned Single Judge.

4. That being the position, we set aside the impugned order and restore the Letters Patent Appeal to its original number. The High Court is now requested to dispose of the Letters Patent Appeal within three months from the date of supply of a copy of this order to it after giving hearing to the parties and after passing a reasoned order in accordance with law.

5. When the LPA will be restored, it will be open to the parties to apply for appropriate interim order before the High Court and if such application is filed, the High Court is requested to decide the same as expeditiously as possible.

6. The impugned order is thus set aside. The appeal is allowed to the extent indicated above. There will be no order as to costs.

.....J.
[Tarun Chatterjee]

New Delhi;
July 31, 2009.

.....J.
[R.M.Lodha]

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ITEM NO.50 COURT NO.5 SECTION XVIA

SUPR EME COUR T OF I ND I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).11105/2008

(From the judgement and order dated 24/07/2007 in CN No. 254/2006 of The HIGH COURT OF J & K AT JAMMU)

STATE OF J&K & ORS. Petitioner(s)

VERSUS

MOHMAD MAQBOOL SOFI & ORS. Respondent(s)

(With prayer for interim relief and office report)

Date: 31/07/2009 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE TARUN CHATTERJEE
HON'BLE MR. JUSTICE R.M. LODHA

For Petitioner(s) Mr. Anis Suhrawardy,Adv.
 Mrs.Shamama Anis, Adv.
 Mr.Syed Mehdi Imam, Adv.
 Mr.Tabrez Ahmad, Adv.

For Respondent(s) Mr. Arvind Minocha,Adv.

Mrs.Veena Minocha, Adv.
Mr.Randhir Singh, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is allowed to the extent indicated in the signed Judgment.

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There will be no order as to costs.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed non-reportable Judgment is placed on the file)