

PETITIONER:
THE COMMISSIONER, RELIGIOUS & CHARITABLE ENDOWMENTS, BANGALOR

Vs.

RESPONDENT:
KASLIYAPPA GURUKULA SRI VIDYA SHALA

DATE OF JUDGMENT 01/09/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1995 SCC (6) 481 JT 1995 (6) 516
1995 SCALE (5) 263

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Though the respondent has been served, he does not appear either in person or through counsel.

Leave granted.

Admittedly, the suit was filed in which the Government was set ex-parte and an ex-parte decree was granted. Then the State filed an application to set aside the ex-parte decree on February 17, 1984 and that petition was dismissed on the ground that the delay was not properly explained. The appeal was also dismissed by the High Court.

The question is whether the State has properly given explanation for not filling the application to set aside the ex-parte decree within 30 days from the date of the knowledge. No notice required under s.80 CPC was issued. In view of the fact that the office of the Government was informed on February 15, 1984, the Government must be deemed to have had notice of ex-parte decree from that date and within three days thereafter the application was filed. Therefore, there was no delay.

The appeal is accordingly allowed. No costs.