

CASE NO.:
Appeal (civil) 871 of 2008

PETITIONER:
UNION OF INDIA & ORS

RESPONDENT:
CAMRUS ZAMAN GHAFUR PARIAT

DATE OF JUDGMENT: 31/01/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT

O R D E R
CIVIL APPEAL NO.871 OF 2008
[Arising out of SLP(C)No.1683 of 2006]

Leave granted.

Heard the parties at length.

In appeal preferred by Union of India before the District Judge, it is alleged that there was a delay of 447/523 days. The District Judge after considering the facts and circumstances supported by elaborate reasons condoned the delay. The High Court, however, in revision application filed under Section 115 of C.P.C. interfered with the order of the District Judge and reversed the decision.

It is now settled law that condonation of delay is the discretionary power of the Court. If the Court of the first instance exercises the discretionary power and has condoned the delay or refused to condone the delay, the appellate court normally does not interfere. In the present case, the District Judge has condoned the delay after taking into consideration the facts and circumstance recited in the condonation application supported by reasons, allowed

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Section 5 of the Limitation application. The High Court should have restrained in such matters to interfere with the discretionary power of the court of the first instance.

We accordingly, set aside the order of the High Court. The order passed by the District Judge is restored. The appeal now is restored to the file of District Judge, for disposal on merit and in accordance with law. The appeal may be expedited.
The appeal is disposed of.