

Pradip J. Mundhra v. Punjab National Bank

Pradip J. Mundhra

...Appellant

Punjab National Bank

...Respondent

Case No: Appeal on Diary No. 32/2022

Date of Judgement: 28/02/2023

Judges:

Mr Justice Ashok Menon, Chairperson

For Appellant: Mr Puneet Gogad along with Ms Samita V., i/b M/s. Pritesh Burad & Associates, Advocates.

For Respondent: Ms Asha Bhuta, i/b M/s. Bhuta & Associates, Advocates.

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Facts:

This is an order passed in I.A. No. 125/2022 (CoD) in Appeal on Diary No. 32/2022 by the Debts Recovery Appellate Tribunal, Mumbai. The appellant, Pradip J. Mundhra, was the original Defendant No. 7 in O.A. No. 141 of 2015 before the Debts Recovery Tribunal (DRT), Aurangabad. The appellant is aggrieved by the DRT's order dated 07.04.2016, which restrained him from travelling abroad. Initially, the appellant approached the High Court of Judicature of Bombay at Aurangabad by filing Writ Petition No. 4406 of 2015. The High Court granted an ad-interim order on 20.06.2016, permitting the appellant to travel to South Africa on certain conditions. On 19.04.2017, the High Court granted the appellant liberty to withdraw the writ petition and file an appeal before the DRAT, with a direction to consider the time spent

prosecuting the writ petition while dealing with the application for condonation of delay.

Court's Elaborate Opinions:

The court found that the appellant had a meritorious case, considering the High Court's decision in Anurag vs. Bank of India & Ano. 2022 SCC OnLine Bom 1160, which held that the DRT has no power to restrain a person from travelling abroad in the absence of specific provisions. The court allowed the application for condonation of delay, subject to the payment of Rs. 10,000/- to the DRT Bar Association, Mumbai, for the purchase of books and periodicals. The court observed that even after excluding the time spent prosecuting the writ petition, the appeal should have been filed before the onset of the pandemic, and the appellant may not get the benefit of the exclusion of limitation granted by the Supreme Court.

Arguments by the Parties:

Appellant's Arguments: The appellant argued that the impugned order of the DRT was erroneous, as the DRT had no jurisdiction or power to restrain a person from travelling abroad in the absence of specific powers.

The appellant contended that refusing permission to travel abroad contravenes Article 21 of the Constitution of India and violates the rights guaranteed therein. The appellant sought the benefit of the exemption granted by the Supreme Court due to the pandemic, in addition to the exclusion of the time spent prosecuting the writ petition.

Respondent's Arguments: The respondent (Punjab National Bank) opposed the application for condonation of delay, arguing that the reasons stated for condonation were not sufficient, and there was an unreasonable delay of 2105 days.

The respondent pointed out that the appeal should have been filed before the start of the pandemic, and there was already a delay of more than four years prior to the onset of the COVID-19 pandemic.

Cases Cited:

Anurag vs. Bank of India & Ano. 2022 SCC OnLine Bom 1160

State of Kerala & Ors. vs. V. S. Raveendran MANU/SC/0109/2009

Mahindra and Mahindra Financial Services Ltd. vs. Maheshbhai Tinabhai Rathod & Ors. (2022) 4 SCC 162

Collector, Land Acquisition, Anantnag & Ors vs. Katiji & Ors. MANU/SC/0460/1987

Sections and Laws Referred:

Article 21 of the Constitution of India (Right to Life and Personal Liberty)

No specific sections or laws were mentioned in the order.