

Narayan Singh and anr. Vs. Rajaram and anr.

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Court : Madhya Pradesh

Decided On : Mar-07-1995

Reported in : AIR1995MP200; 1996(0)MPLJ959

Judge : J.C. Chitre, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 51 - Order 41, Rule 21

Appeal No. : C.R. No. 1064 of 1994

Appellant : Narayan Singh and anr.

Respondent : Rajaram and anr.

Advocate for Def. : R.C. Chhazed, Adv.

Advocate for Pet/Ap. : S. Mukati, Adv.

Judgement :

ORDER

J.C. Chitre, J.

1. Heard Shri Shailendra Mukati counsel for the petitioners; Shri R. C. Chazed, for the non-applicants. This revision is decided finally as prayed by counsel.

2. The day on which the suit was proceeded against the applicants ex parte, was obviously a day of monsoon. It is also eloquent from the order which is the subject

matter of challenge that it rained heavily on preceding day. The learned Judge has pointed out in his order that according to him that was not the time proper for sowing. The sowing operation is dependent on various factors and there cannot be hard and fast rule specifying the time when an agriculturist should carry on sowing operation.

3. It is true that a Judge should do a satisfactory work in the month; but that does not mean that in proper cases proper opportunity should be denied to the litigants. The Judge could have taken another matter which was listed for hearing on daily board. A reasonable approach has to be taken and the justice should not be hurried at the cost of haste in disposing of the matters.

4. The application for setting aside the order on ex parte has been moved on the same day. When the litigant specifies the cause for absence which appears to be reasonable, keeping in view the general experience of human being it should be accepted as satisfactory cause explaining the absence. 'Satisfactory' is a relative term. The difficulty of the litigant has to be understood by keeping oneself in the circumstances in which he lives. The standard of a city dwellers cannot be applied to a villager.

5. Thus, in the circumstances I find that the cause shown by the applicant was satisfactory for explaining their absence on 24-6-94. Therefore, the said ex parte order deserves to be set aside. However, for making the applicant to understand that the the before the Court is to be decided reasonably expeditiously, I find that some costs needs to be imposed on applicants.

6. The applicants should pay cost of Rs. 101/- (one thousand one) to the non-applicants. The order passed against the applicants treating them ex parte directing suit to be heard ex parte, is hereby set aside. The applicants to participate in the suit as they participated before 24-6-94. The trial Court to hear the suit in accordance with law and decide it expeditiously but properly. The parties are directed to appear before the trial Court on 28-3-95. C.C. to the litigants as well as the trial Court.

