

Mahila Lila and ors. Vs. Vimlabai and ors.

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SooperKanoon Citation : sooperkanoon.com/500225

Court : Madhya Pradesh

Decided On : Sep-09-1985

Reported in : AIR1986MP236; 1986MPLJ148

Judge : T.N. Singh, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 22, Rule 4; [Limitation Act, 1963](#) - Sections 5

Appeal No. : C.R. No. 1072 of 1983

Appellant : Mahila Lila and ors.

Respondent : Vimlabai and ors.

Advocate for Def. : S.O. Agarwal, Adv.

Advocate for Pet/Ap. : K.S. Agrawal and ;C.S. Agarwal, Adv.

Disposition : Revision dismissed

Judgement :

ORDER

T.N. Singh, J.

1. Lachi Tewari, AIR 1984 SC 41 has infused life into this lis in the instant case. Counsel for the petitioners vehemently disputes this position, but I feel disinclined

to agree with him.

2. On 4-1-1981, the sole-defendant died. An application was prepared and signed by the plaintiff on 4-4-1981 for substitution of the legal representatives of the deceased defendant. However, unfortunately, it could be filed in the Court by the counsel only on 9-4-1981. The short point, therefore, is, who will suffer for counsel's default? Lachi Tewari (supra) is the right and complete answer to the question. The plaintiff shall not suffer and her case shall not fail. Indeed, this view was rightly taken by the trial Court as the period of limitation was computed not from the date on which it was prepared and signed for being filed. No fault can be found with the Court in accepting the position and the impugned order is immune to challenge. Petitioner's counsel, Shri K.S. Agrawal, has relied on the decision of their Lordships in *State of Gujarat v. Sayed Mohd. Bakir El Edross*, AIR 1981 SC 1921 (but the facts of this case were entirely different.) The legal proposition laid down therein is unexceptionable, but that has no application to the facts of the instant case, which is covered clearly by the decision of their Lordships in *Lachi Tewari* (supra).

3. In the result, this application fails and is dismissed. No costs in the circumstances of the case.

4. Let the records of the case be sent down forthwith.