

Govinda Vs. Bhandari

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Court : Chennai

Decided On : Nov-06-1890

Reported in : (1891)ILR14Mad81

Judge : Muttusami Ayyar and ;Weir, JJ.

Appellant : Govinda

Respondent : Bhandari

Judgement :

1. A preliminary objection is taken on behalf of respondent that the appeal is 113 days out of time.
2. If the time occupied in disposing of the application for review by the Subordinate Judge's Court, viz., 152 days, is allowed and excluded, it is admitted the appeal will be in time. The question is whether the appellant has shown any sufficient ground for the review time being excluded. He cannot claim its exclusion as of right, but merely as a matter of grace within the judicial discretion of the Court. The grounds of review, which have been read, are, with one exception, grounds which were already argued and decided against in appeal and are not grounds for review.
3. Certain documents were said to have been newly discovered, but the circumstances in which they are alleged to have been discovered are said to be such as should not be believed. This was the view taken by the Subordinate Judge

and we cannot say that it was unfounded.

4. It has also been brought to our notice in this connection that additional evidence was taken even at the hearing of the appeal, so that the discovery of further evidence at a later stage seems improbable.

5. The petition for review, moreover, was not, we consider, presented with reasonable diligence, but after an interval of nearly three months from the alleged discovery of the new evidence.

6. On these grounds, we think the appellant is not entitled to have the delay excused. We must accordingly reject the appeal as barred by limitation.

7. Respondent is entitled to his costs.

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