

07.5.02 Hon. Mr. Justice R.R.K. Pravech: vs
Hon. Mr. S. Dayal, A.M.

We have heard Sri Vinod Kumar, holding brief of Sri B.R. Yadav Counsel for the applicant and Sri L.M. Singh holding brief of Sri N.P. Singh Counsel for the respondents.

The facts necessary for deciding these applications are that this OA was dismissed in default on 11-4-01 for restoration of the OA. MA 2870/01 was filed on 3.7.01. This restoration application was also dismissed in default on 20.7.01. For restoration of the restoration application MA 1994/02 has been filed on 22-4-02. In para 1 of the application it has been stated that the order for dismissal in default has not been served either upon the applicant or counsel of the applicant. Therefore they had no knowledge about the dismissal order.

To ascertain the truth, we summoned the documents from the office. The perusal of which shows that on dismissal of the OA on 11-4-01, copy was prepared on 20-4-01. It was sent to despatch section on 8.5.01 and from the despatch section copy of the order was sent to the applicant directly under regd. cover on 14.5.01 with despatch no. 5025. So far as the order dated 20.7.01 is concerned, copy was prepared on 27-7-01. It was sent to despatch section on 27-8-01 and from there it was sent to applicant under regd. cover on 3.9.01. The entry in the despatch register is at sl. no 6118. Thus, both the orders were sent to the applicant under regd. cover, they have not been received back in the office unserved and the statement of the applicant that copy was not served and he had no knowledge cannot be believed. In moving MA 1994/02 there is delay of 8 months for which there is no explanation except as stated above. In the circumstances, the application is highly time barred and is liable to be rejected. The application is accordingly rejected as time barred.

A.M.

V.C.