

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

CR No. 09/2020
CM No. 325/2020
Cav No.886/2020

Pronounced on:-19th .05.2020

Gurbachan Singh ...Petitioner(s)

Through: Mr. R. P. Sharma, Advocate

vs.

Teja Singh and others ...Respondent(s)

Through: Mr. Lawanya Sharma, Advocate
for caveators/respondent Nos. 1&2.

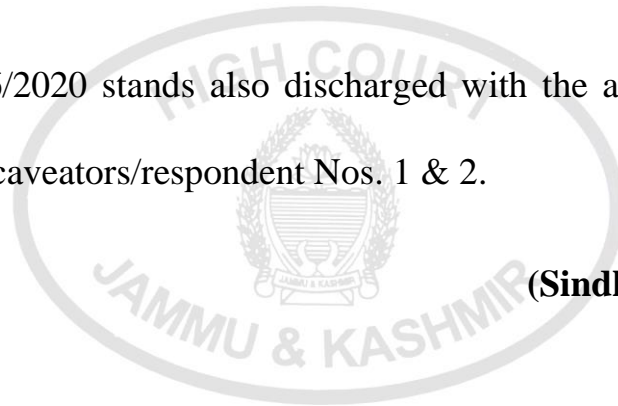
CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

JUDGMENT

1. Petitioner has questioned the judgment and decree dated 21.12.1989 passed by the Court of Sub-Judge, Jammu in file No. 173/Civil titled, 'Beant Singh v. Teja Singh', on the ground that it is being nullity for want of jurisdiction. However, the moot question is whether the petitioner has explained the delay of nearly 30 years in filing of this petition. The only plea taken by the petitioner is that he was not a party to the suit, as the suit was between the father and the son which was collusive, therefore, he had no knowledge of the same.
2. Be that as it may this petition involves disputed question of law and fact and such a long delay has not been explained. This court is not inclined to interfere especially when the petitioner has an alternative remedy to challenge the alleged decree.
3. Even otherwise the decree is not binding on the petitioner, who was

not a party to the proceedings, therefore, he has a right to explore the legal remedy available to him other than under Article 227. It is settled proposition of law that one of the considerations which will weigh with the court while exercising jurisdiction is, whether the parties seeking its sustenance has been reasonably diligent in pursuit of his remedy. However, in this case the petitioner is guilty of undue delay of nearly 30 years which is sufficient to refuse the relief because by now the rights of the other parties cannot be decided in this proceeding

4. In view of the aforesaid, there is no merit in this petition, as such, and the same is, accordingly, dismissed alongwith CM.
5. Caveat No. 886/2020 stands also discharged with the appearance of counsel for the caveators/respondent Nos. 1 & 2.



(Sindhu Sharma)
Judge

JAMMU
19th.05.2020
SUNIL-II

Whether the order is speaking:
Whether the order is reportable:

Yes/No
Yes/No