

A THE COMMISSIONER, RELIGIOUS AND CHARITABLE  
ENDOWMENTS, BANGALORE AND ORS.

v.

KASLIYAPPA GURUKULA SRI VIDYA SHALA

SEPTEMBER 1, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Code of Civil Procedure, 1908 : Order IX—Rule 13. Ex-Parte  
decree—Setting aside of—Application filed within 3 days of knowledge—Held  
C no delay.*

On the question whether the State has properly given explanation  
for not filing the application to set aside the ex- parte decree within 30  
days from the date of the knowledge :

D Allowing the appeal, this Court

**HELD :** No notice required under section 80 CPC was issued. In view  
of the fact that the office of the Government was informed on February 15,  
1984, the Government must be deemed to have had notice of ex parte  
decree from the date and within three days thereafter the application was  
E filed. Therefore, there was no delay. [247-B-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8077 of  
1995.

F From the Judgment and Order dated 19.6.89 of the Karnataka High  
Court in M.F.A. 1046 of 1989.

M. Veerappa for the Appellants.

The following Order of the Court was delivered :

G Though the respondent has been served, he does not appear either  
in person or through counsel.

Leave granted.

H Admittedly, the suit was filed in which the Government was set  
ex-parte and an ex-parte decree was granted. Then the state filed an

application to set aside the ex-parte decree on February 17, 1984 and that petition was dismissed on the ground that the delay was not properly explained. The appeal was also dismissed by the High Court. A

The question is whether the State has properly given explanation for not filing the application to set aside the ex-parte decree within 30 days from the date of the knowledge. No notice required under s.80 CPC was issued. In view of the fact that the office of the Government was informed on February 15, 1984, the Government must be deemed to have had notice of *ex parte* decree from that date and within three days thereafter the application was filed. Therefore, there was no delay. B

The appeal is accordingly allowed. No costs. C

T.N.A.

Appeal allowed.