

①
\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LA.APP. 261/2012

RAJ RANI & ORS.

..... Appellants

Through: Mr. V.P. Rana, Advocate

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Sanjeev Sahay, Advocate
for R-1/UOI

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% 03.10.2012

CM No.17387/2012 (u/S 151 CPC)

Allowed, subject to all just exceptions.

CM No. 17386/2012 (u/S 5 of Limitation Act, 1963 r/w Sec. 151 CPC)

To seek condonation of delay of sixteen days' delay in filing the accompanying appeal, the reason put-forth is that applicants/ appellants are ladies, who had no occasion to appear before the Court.

Notice.

Mr. Sanjeev Sahay, Advocate, accepts notice of application on behalf of respondent No.1/UOI.

Since it is not stated that applicants/ appellants are *pardanashin* ladies, therefore, the delay occasioned is found to be disclosing negligence but not gross one, therefore, this application is allowed and

Signature Not Verified

Digitally Signed

By:AMUL YALA APP No. 261/2002

Page 1

delay of sixteen days' in filing the accompanying appeal is condoned, while clarifying that for the period of delay, applicants/ appellants shall not be entitled to interest in the event of their succeeding in appeal.

With aforesaid observations, this application is disposed of.

LA.APP. 261/2012

Impugned order of 6th June, 2012 restricts appellant's claim to interest under Section 34 of *The Land Acquisition Act, 1894* upto 18th December, 2007, on balance decretal amount in the execution proceedings taken pursuance to Reference Court's Order of 9th February, 2007 whereas, appellants had claimed interest upto 16th January, 2010.

At the hearing, learned counsel for appellants had drawn attention of this Court to order-sheet of 16th January, 2010 of the Executing Court to point out that deposit of balance compensation amount of ₹42,720/- in pursuance to decree of 9th February, 2007 was made on the said date, i.e., on 16th January, 2010 and so entitlement of appellants to interest is till 16th January, 2010 and so, impugned order declining interest for the period from 18th December, 2007 upto 16th January, 2010 is erroneous and is liable to be set aside and application of appellants under Order 21 Rule 1 of the CPC deserves to be allowed in terms of the prayer made therein.

After noting the undisputed factual position, Executing Court while relying upon Apex Court decision in *IVO Agnelo Santimano Fernandes & ors. v. Government of Goa & Anr. (2011) 11 SCC 506* has concluded that liability to pay interest subsists till compensation amount is deposited in court. Even counsel of appellants relies upon

afore-noted decision in *IVO Agnelo* (supra) to claim interest till 16th January, 2010.

The legal position spelt out in *IVO Agnelo* (supra) needs no reiteration. The finding returned in the impugned order of balance decretal amount of ₹47,720/- being deposited in the court on 18th December, 2007 remains unassailable and in view thereof, it is held that the ratio of Apex Court decision in *IVO Agnelo* (supra) has been correctly applied by the Executing Court and thus, the impugned order does not suffer from any illegality or infirmity.

In view of the aforesaid, finding no merit in this appeal, it is dismissed with no orders as to cost.



(SUNIL GAUR)
Judge

OCTOBER 03, 2012

rs/pkb