

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **LA. Appeal No.25 of 2013**

Decided on : 15th July, 2013

MAHINDER SINGH Appellant
Through: Mr. Aditya Mewara, Advocate.

Versus

UNION OF INDIA & ANR. Respondents
Through: Mr. A.S. Rao, Law Officer, DMRC/R-2.

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

C.M. No.1915/2013 (for exemption)

Exemption allowed, subject to the deficiency being rectified.

The application stands disposed of.

C.M. Nos.1914/2013 (for 2542 days' delay in filing), 1916/2013 (for 60 days' delay in re-filing) in LA. Appeal No.25/2013

1. This is an appeal under Section 54 of the Land Acquisition Act against the judgment dated 22.8.2005 passed by Mr. A.K. Mendiratta, the learned Additional District Judge, Delhi in LAC No.363/2004 by virtue

of which the appellant is seeking enhancement of compensation @ ₹13/- lacs per bigha.

2. Briefly stated the facts of the case are that the appellant is claiming himself to be the owner and *bhumidhar* of a land comprising of Khasra No.18/20/1 (3-14) measuring 3 bigha 14 biswas in category 'A' of village Mundka, Delhi. It has been alleged that the said land was duly notified and awarded and the possession was taken by the LAC (West) on 2.7.1998. The Land Acquisition Collector had assessed the value of the land at ₹8,96,640/- per acre for 'A' category land and ₹8,06,640/- per acre for 'B' category land. Taking into consideration the various relevant factors including the market value, the value of 'A' category land was fixed at ₹9,89,288/- per acre and that of 'B' category land at ₹8,99,288/- per acre.

3. The present appeal has been filed before this court after a delay of nearly 2542 days', that is, almost after the delay of seven years. The reasons for the delay given in the application under Section 5 of the Limitation Act is that the appellant is an illiterate person. It is stated that after the decision of the learned Additional District Judge enhancing the

compensation, the appellant was not aware of the fact that he has a further right to appeal to the High Court for further enhancement of compensation. It has been alleged that on coming to know about the fact that other residents of the same village had filed further appeals before the High Court and the High Court had enhanced the compensation from ₹9,86,000/- for 'A' Category of land to ₹13/- lacs or so, the appellant directed his counsel to file the appeal before the High Court. Therefore, the aforesaid delay was sought to be explained by expressing ignorance about his right to file appeal and thus, condonation of the same is sought. It is also alleged that this court has condoned the delay in couple of cases and enhanced the compensation in terms of the *Jamna vs. Union of India*; passed in LA. App. No.784/2005 on 8.7.2011 to ₹13/- lacs.

4. The learned counsel for the appellant had sought time to file a better affidavit explaining delay of 2542 days and the said affidavit was filed on 10.4.2013 wherein instead of giving fresh information with regard to the reasons for the delay, the same point has been reiterated that the appellant was ignorant about his right to file further appeal and additionally it has been stated that there are some other villagers whose

appeal was entertained after condoning the delay and since there is already a judgment passed by the High Court in case titled *Jamna vs. Union of India & Ors. (supra)* enhancing the compensation from ₹10 lacs approximately to ₹13 lacs, accordingly, the prayer for condonation of delay is urged.

5. Mr. Rao, Law Officer of the DMRC/respondent No.2 has vehemently contested the application seeking condonation of delay . As a matter of fact, it has been stated by him that there has been a gross negligence on the part of the appellant in pursuing his statutory remedies and, therefore, after having slept over his right to file an appeal for a period of seven years, and without giving any cogent or plausible explanation for remaining silent for such a long period, this gross negligence does not meet the requirement of Section 5 of the Limitation Act so as to constitute ‘sufficient cause’ to condone the delay.

6. The learned counsel has further handed over a judgment of this court passed in LA. App. No.64 of 2013 pertaining to the same village Mundka decided on 10.5.2013 titled *Ram Karan, Deceased through LRs vs. Union of India & Ors.; 118 (2005) DLT 402* wherein a similar delay

of nearly seven years has not been condoned by the court. It has been stated that in view of the said judgment, the delay of 2542 days' in filing the appeal by the appellant may also not be condoned.

7. I have carefully considered the rival submissions and have gone through the record. The requirement of law seeking condonation of delay has been subject matter of repeated reiteration by the Supreme Court right from *Ramlal, Motilal and Chhotelal vs. Rewa Coalfields Ltd.*; 1962 AIR 361 onwards. In *Ramlal's* case (*supra*), the Supreme Court had held that not only a party has to show as to why he could not file his appeal or application on the last day of limitation but he must also explain each and every day's delay. This explanation of each day's delay has been subsequently and especially in early 1990's considerably diluted by the Supreme Court. It has been observed by the Supreme Court that two broad factors will be taken into consideration for condonation of delay, firstly, the length of delay which may not be important but may be relevant for the purpose of determining the *bona fide* of a party in approaching the court and secondly, the *bona fide* of the party seeking condonation of delay are important or conversely meaning that the person

who is seeking condonation of delay should not be responsible for gross negligent conduct. Reliance in this regard is placed on case titled *Nand Ram & Ors. vs. The State of Haryana; JT 1988 (4) SC 260*.

8. In the instant case, the appellant has admittedly filed the appeal after expiry of almost seven years from the date of judgment passed by the learned Additional District Judge on 22.8.2005. The reason which has been given by the appellant is that he is an illiterate person and was not aware of his right to file further appeal in the High Court. I do not believe this version of the appellant that he was not aware of the right to file further appeal before the High Court for enhancement of compensation. Though, the appellant may be illiterate but he was represented by a counsel and it is very unlikely that after the matter was decided by the learned Additional District Judge, his counsel would not have made him aware of his right to file further appeal in the High Court. The appellant himself had sought time to file additional affidavit but in the additional affidavit also, no fresh light has been thrown by the appellant which could show any cogent reason which prevented him from filing the appeal timely. On the contrary, it seems that the appellant, after

having invited the judgment of the Additional District Judge regarding enhancement, had accepted the same to be correct and reconciled to his fate. It is only after when some of the connected appeals filed in the High Court pertaining to the same award were allowed and some villagers were able to get the compensation enhanced from ₹10/- lacs to ₹13/- lacs, the appellant must have been prompted that he too could get the same benefit by filing an appeal after seeking condonation of delay in filing, even though it may be belated. This fact is amply reflected by the fact that in the additional affidavit not only the appellant has talked about *Jamna's case (supra)* in which the compensation of land rates has been enhanced to ₹13/- lacs but he has also referred to two judgments where the compensation has been paid at an enhanced rate to the oustee of land acquisition. Even otherwise, the judgment which has been referred to by Mr. Rao in case titled *Ram Karan (supra)*, the counsel representing him has pleaded the same explanation that Ram Karan through his legal heirs was not aware of his right to file an appeal, while as the fact of the matter is that Ram Karan had expired before the filing of the appeal. The appellant in the present case seems to have been swayed by a feeling that since the aforesaid two cases have yielded results by condoning the delay

in filing the appeal for enhancement of compensation, he too could take a chance to get his compensation enhanced.

9. I feel that the appellant has not given any cogent reason for having slept over his rights to file an appeal for a period of seven years or that his counsel would not have made him aware of the fact that he has a right to file a further appeal for enhancement of compensation to the High Court. As a matter of fact, experience has shown though these owners of the land or *bhumidhars* may be illiterate educationally but they are very well-versed with their rights and fight tooth and nail against the acquisition of their land. I, therefore, feel that the appellant has not been able to establish any 'sufficient cause' for condoning the delay. On the contrary, the appellant has chosen to file this speculative appeal with the full view that in case the delay is condoned, he may be able to make a quick buck by getting the balance amount of enhanced compensation. I, therefore, feel that the present application is totally misconceived as no 'sufficient cause' has been shown and the same is accordingly dismissed.

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10. In view of the dismissal of the application for condonation of delay, the appeal also stands dismissed being barred by limitation.

V.K. SHALI, J.

JULY 15, 2013
‘AA’