

**HIGH COURT OF TRIPURA
AGARTALA
I.A. No.01 of 2024
In L.A. App. No.53 of 2024**

Land Acquisition Collector,
West Tripura District, Agartala.

-----Applicant(s)

Versus

Sri Manik Lal Modak & Ors.

-----Respondent(s)

For Applicant(s)	:	Mr. P. Gautam, Adv.
For Respondent(s)	:	Mr. Bidyut Majumder, DSGI, Mr. S. Lodh, Adv.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

01/10/2024

Learned Counsel, Mr. P. Gautam is present for the applicant-appellant. Learned Counsel, Mr. S. Lodh is present for the claimant-respondent Nos.1 to 3. Learned DSGI, Mr. Bidyut Majumder is present for the respondent No.4.

Heard the contesting parties yesterday i.e. on 30.09.2024.

This present applicant-appellant has filed appeal under Section 54 of L.A. Act challenging the judgment and award dated 31.01.2023 delivered by Learned L.A. Judge, Court No.4, West Tripura, Agartala in connection with case No.Misc. (L.A.) 130 of 2016 and along with the memo of appeal another application under Section 5 of Limitation Act was filed for condoning delay of 394 days in preferring the appeal.

In course of hearing of argument regarding application for condonation of delay, Learned Counsel for the applicant-appellant submitted before the Court to pass appropriate order in accordance with law.

On the other hand, Learned Counsel for the respondent-claimants referring the application in para Nos.2 and 3 submitted that the grounds as mentioned in the application have not been clearly explained by the applicant-appellant and in absence of 'proof of sufficient cause', there is no scope to allow the delay condone application filed by the applicant-appellant and Learned Counsel further submitted that the applicant-appellant was supposed to explain each days delays in preferring the appeal, but the same is absent in the application filed and furthermore, the Requiring Department who ought to have made the payment refused to prefer any appeal, thereafter, the L.A. Collector without any basis decided to prefer appeal in this case. So, Learned Counsel urged for dismissal of this application with costs.

Learned DSGI in course of hearing did not submit anything against the application for condonation of delay filed by the applicant-appellant. For the sake of clarity, let us see what grounds were mentioned in the application for condonation of delay by the applicant.

In the application, it was submitted that the period of limitation for filing appeal was 90 days and as such the same was supposed to be filed on or before 02.05.2023 but the applicant-appellant could not do the same. According to the applicant-appellant, after the judgment, the applicant-appellant applied for certified copy of the judgment on 14.02.2023 and thereafter, the certified copy of the judgment was received on 01.03.2023 and after obtaining the certified copy the same was sent to the office of Learned G.A. on 20.03.2023, but the Learned G.A. returned

back the file on 23.03.2023 and later on, on 24.03.2023 a case file along with other records were sent to the Office of Learned G.P. for views and the Learned G.P. opined that appeal may be preferred before the High Court by the Requiring Department and returned back the file on 01.04.2023. After that, the case file was sent to the Requiring Department for preferring appeal. But on 26.05.2023 the Requiring Department informed that they are not interested to prefer an appeal before the High Court challenging the judgment dated 31.01.2023 passed in Misc. (LA) 130 of 2016. Thereafter, the case file was again placed before the District Magistrate & Collector, West Tripura District on 04.07.2023 and on 31.07.2023 detailed note was given by D.M. & Collector in connection with this case and accordingly, a letter was sent on 25.08.2023 to the Requiring Department again for preferring an appeal and another reminder letter was issued to the Requiring Department on 05.10.2023 but the Requiring Department by a reply letter dated 03.11.2023 requested the L.A. Collector to recover the amount from the referring claimants and as such the Officer-in-Charge of Law Cell gave his note on 06.11.2023 and a synopsis of the case was drafted on 20.11.2023 and by a note dated 24.11.2023 the same was sent to Law Department for instructions and decisions and the Law Department on 30.11.2023 gave its decision to prefer an appeal challenging the judgment as aforesaid and consequently, the Principal Secretary, Revenue Department passed an order on 06.01.2024 directing the Land Acquisition Collector to prefer an appeal. After that the case file was sent before the Learned Government Advocate, High Court of Tripura on 03.02.2023 and subsequently, on 05.03.2024 the case

record was handed over to the Learned Counsel, Mr. P. Gautam for preferring appeal but due to health problem, Learned Counsel could not prepare the draft in time and lastly, on 31.05.2024 the appeal was preferred.

These are the grounds as mentioned in the application for condonation of delay.

In course of hearing of argument, Learned Counsel for the claimant-respondents in support of their contention relied upon one citation of the Hon'ble Apex Court reported in *University of Delhi vs. Union of India and Ors.* dated 17.12.2019 reported in **(2020) 13 SCC 745** wherein in para Nos.23 and 24, Hon'ble the Apex Court observed as under:

"23. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party, namely, the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even-handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation. In *Katiji: LAO v. Katiji: (1987) 2 SCC 107* the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight of is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800%.

24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The

entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified."

Here in the given case, after hearing both the sides and on perusal of the principle of law laid down by the Hon'ble Apex Court, it appears that the present applicant-appellant only could properly explain the period regarding delay for obtaining the certified copy of the judgment/award but the other grounds as mentioned in the application for delay could not be explained properly. No sufficient cause could be explained in this regard, rather it appears that the Requiring Department, who was supposed to make payment of the compensation to the referring-claimants at one point of time decided not to prefer any appeal but again they asked the present applicant-appellant to recover the amount from the respondent-claimants. In addition to that on perusal of the application, further it appears that the file was moved to the Office of Government Advocate on different occasions and in all the occasions the file was kept without any proper explanation pending for view and lastly when the case was entrusted to Mr. Gautam, it was asserted that due to illness he could not prefer the appeal in time. In this regard, no documentary evidence is also enclosed which shows that the

entire matter was dealt in a very casual manner without any proper explanation. Even in course hearing, Learned Counsel for the applicant-appellant did not submit anything rather left the matter to the discretion of the Court for passing appropriate order which shows that he had also nothing to say regarding condonation of delay.

Situated thus, after hearing the rival parties and also after perusal of the judgment of the Hon'ble Apex Court in the aforenote case, it appears that in the given case, the applicant-appellant has failed to give any satisfactory explanation or failed to show any sufficient cause to justify the delay in preferring the appeal. Hence, the application for condonation of delay deserves no merit and accordingly, it stands dismissed being devoid of merit.

The I.A. accordingly stands disposed of.

JUDGE



**MOUMITA
DATTA**

Purnita

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