

**HIGH COURT OF TRIPURA  
AGARTALA**

**IA No. 01 of 2023 in L.A. App. 105 of 2023**

|                   |                                                            |
|-------------------|------------------------------------------------------------|
| For Applicant(s)  | : Mr. P. Gautam, Advocate.                                 |
| For Respondent(s) | : Mr. TD Majumder, Sr. Advocate.<br>Mr. D. Kalai, Advocate |

**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

**ORDER**

**26.02.2024**

Heard Mr. P. Gautam, learned counsel for the applicant. Also heard, Mr. TD Majumder, learned senior counsel assisted by Mr. D. Kalai, learned counsel appearing on behalf of respondent No.1.

**[2]** This is an application filed by the applicant under Section 5 of the Limitation Act, 1963 for condoning delay of 1667 days in preferring the appeal vide No. L.A. App.105 of 2023 against the impugned judgment & order dated 07.03.2018 passed in Misc. (L.A.) 47 of 2006 by the learned Land Acquisition Judge, Court No.2, West Tripura, Agartala.

**[3]** It is contended by Mr. P. Gautam, learned counsel for the appellant-applicant that an appeal is filed alongwith this condone delay application and the delay in preferring the said appeal i.e. LA App.105 of 2023 is not intentional. It is further contended by the learned counsel that sufficient reasons for condoning the delay have been indicated in the accompanying affidavit and hence, the applicant prays to condone the delay.

**[4]** Mr. TD Majumder, learned senior counsel appearing along with Mr. D. Kalai, learned counsel on behalf of claimant-respondent No.1 has contended that the appeal filed against the order of the learned LA Judge, Agartala is unjust and unwarranted. It is contended that the amounts fixed by the Court below by enhancing the compensation as fixed by the LA Collector i.e. Rs.5,50,000/- per kani to Rs.20,00,000/- per kani is passed by appreciating all the evidences on record.

**[5]** Insofar as, this condone delay application is concerned, Mr. TD Majumder, learned senior counsel has argued that in the accompanying affidavit, no

reasons have been indicated to explain the delay and prayed that the said application is not in consonance with Section-5 of the Limitation Act. He has further prayed to dismiss the present condone delay application along with the connected appeal.

**[6]** Since this Court is dealing with the condone delay application without going into the merits of the case, the said application is considered for adjudication.

**[7]** It is seen from the affidavit filed in support of the condone delay application that the delay of 1667 days has not been explained either in terms of Section 5 of the Limitation Act nor in general convincing a reasonable explanation.

**[8]** In paragraphs no.3 to 5 of the accompanying affidavit filed by the applicant in IA No.1 of 2023, delay has been explained and the same are extracted as under:

**"...3. That, thereafter, the Respondent Nos. 1 & 2 filed one execution petition under Order 21 Rule 11 for realisation of the decretal amount from the Executive Engineer, PWD (R&B), Agartala Division-II, West Tripura before the Ld. Land Acquisition Judge, Court No-2, West Tripura, Agartala being registered as EX(M) 35 of 2018.**

**4. That, on 15/03/2022 the Executive Engineer, Jirania, PWD (R&B) was communicated by the respondent No.3 for direct deposition of the decretal amount before the Ld. Land Acquisition Judge, Court No-2, West Tripura, Agartala.**

**Thereafter, on 30/03/2022 the Executive Engineer, Jirania, PWD (R&B) send the case file to the Ld. Govt. Pleader for seeking his expert views and further course of action. Thereafter, the Ld. Govt. Pleader on 1/04/2022 communicated the O/O Executive Engineer, Jirania, PWD(R&B) for depositing the decretal amount to the Ld. Court as per calculation sheet without delay to avoid further interest burden. The O/O Executive Engineer, Jirania, PWD (R&B) with all related documents forwarded the file to the O/O the Engineer-in-chief for further course of action.**

**Accordingly, on 02/04/2022 the the Engineer-in-chief forwarded the case file to the O/O the Nodal officer(L).**

**Thereafter, on 04/04/2022 the O/O the Nodal officer(L) perusing the record further forwarded it to the Law Department with a note for clarification on the judgment passed by the Ld. Court below.**

**The Law Department after perusing the relevant records and calculation sheet in the case file, on 08/04/2022 has advised that there is good ground for appeal as it appears from the record that the respondent No.3 has not raised any objection on the point of relied upon the judgment passed in Misc(L.A) 48 of 2006 in the present case and forwarded it to the O/O the Nodal officer(L) and then to the O/O the Engineer in-chief, PWD(R&B), Agartala on 13/04/2022. The Engineer in-chief, PWD (R&B), Agartala has agreed on the advice of the Law Dept. for preferring appeal and with a note to prefer an appeal on 25/04/2022 forwarded the file to the O/O Executive Engineer, Jirania, PWD (R&B).**

**Accordingly, the Executive Engineer, Jirania, PWD(R&B) on 28/04/2022 processed the file to the Ld. Govt. Pleader to take**

necessary steps for preferring appeal against the judgement dated 07/03/2018 passed in Misc(LA) 47 of 2006 the Ld. Land Acquisition Judge, Court No-2, West Tripura, Agartala.

Thereafter, the Ld. Govt. Pleader on 24/05/2022 with a suggestion to place the said case file to the Ld. Govt. Advocate, High Court of Tripura for taking appropriate action forwarded the case file to the O/O Executive Engineer, Jirania, PWD(R&B). Accordingly, the Executive Engineer, Jirania, PWD (R&B) also forwarded the case file to the appointed Ld. Advocate, High Court of Tripura for taking appropriate step in preferring appeal as advised by the Law Dept on 01/06/2022.

Thereafter, the appointed Ld. Advocate, High Court of Tripura after receiving the case file on 04/06/2022 and perusing it, returned the case file to the concerned department seeking clarification on the delay caused in preferring the appeal.

Accordingly, the concerned department on 28/06/2022 forwarded the case file to the appointed Ld. Advocate, High Court of Tripura describing the cause of delay occurred in preferring the appeal.

5. That, in the meantime, the respondent Nos.1 & 2 send a notice for attachment of property against the appellants and the respondent No.9 in EX(M) 35 of 2018. And accordingly, the appellant got engaged in the execution proceeding in staying the attachment order.

Thereafter again, on 18/07/2022 it was advised by the Law Dept. to immediately contact with the appointed Ld. Advocate, High Court of Tripura to prefer an appeal, and stay the execution proceeding immediately or to face the attachment of execution and forwarded the case file to appellant. Accordingly, the appellant forwarded the case file to the Ld. Advocate, High Court of Tripura for doing the needful. Though the appeal is ready to be filed but it has been noticed that in judgment there is mistake in the date of delivery of judgment which have been informed. On 21.12.22, the Executive Engineer send the file to the Govt. Pleader, West Tripura District for correction and the date of judgment/Award was corrected on 04.07.2023. Following correction the file placed on 10.08.2023 by the Department to the office of the Govt. Advocate....."

**[9]** Since the delay has not been explained as required under Section 5 of the Limitation Act, this Court feels that this present IA is devoid of merits and the same is liable to be dismissed.

In view of the above reasoning, this condone delay application is accordingly dismissed.

As a sequel, the LA App.105 of 2023 also stands dismissed. Miscellaneous application(s), pending if any, shall also stand closed.

**JUDGE**

Sabyasachi. G.

**SABYASACHI  
GHOSH**

Digitally signed by  
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