

Neutral Citation No. - 2024:AHC-LKO:13440

Court No. - 7

Case :- WRIT - B No. - 162 of 2024

Petitioner :- Ram Saran And Others

Respondent :- Board Of Revenue, U.P. Lucknow Thru. Its Member Judicial And Others

Counsel for Petitioner :- Prabhakar Vardhan Chaudhary, Santosh Kumar Yadav

Counsel for Respondent :- C.S.C., Dilip Kumar Pandey

Hon'ble Saurabh Lavania, J.

Heard.

In view of order proposed to be passed, issuance of notice to the private-respondent(s) is hereby dispensed with.

By means of the present petition the petitioners have assailed the order dated 19.01.2011, 15.05.2013 and 22.05.2023 passed by opposite party no.3, 2 and 1 respectively, as appears from the main relief sought in the present petition, which reads as under:

"(i) issue a writ, order or direction in the nature of certiorari quashing the judgment & order dated 22.5.2023 passed by opposite party No.1, dismissing Second Appeal No. SA/1595/2019-Lko; Computer Case No. R20191046001595- Ram Saran etc. Vs. Additional Commissioner Judicial Lucknow Division Lucknow; contained in Annexure No. 1;' & the judgment and order dated 15.5.2013 passed by the opposite party no. 2 dismissing Appeal No. 44/2011-2012- Jwala Prasad etc. Vs. Sub Divisional Officer/ Asstt. Collector First Class; BKT Lucknow and others; contained in Annexure No. 2 & the judgment & other dated 19.1.2011 passed by the opposite party no. 3 in case no. 48/73/10-11 u/s 166/167 of the U.P.Z.A. and L.R. Act State Vs. Jwala; contained in Annexure No.3. "

The record indicates that a case no. 48/73/10-11 (State Versus Jwala Prasad), under Section 166/167 of U.P.Z.A. & L.R. Act, 1950 (in short 'Act of 1950'), was instituted with regard to Gata No. 454/0-379 hectare situated in Village

Mishrapur, Pargana Mahona, Tehsil Bakshi-Ka-Talab, District Lucknow.

Section 166 of the Act of 1950, says that the transfer made in contravention of the Act to be void and Section 167 of the Act of 1950, provides consequence of void transfer and as per this provision the subject matter of transfer including the trees, crop and wells, existing on land shall with effect from the date of transfer, be deemed to have vested in the State Government free from all encumbrances.

From order dated 19.01.2011 passed by the opposite party no.3/Sub Divisional Officer/ Assistant Collector, First Class Bakshi-Ka-Talab, District Lucknow and the Annexure No. 7 to the present petition, it appears that notices were issued to the concerned, but no one contested the case.

The order dated 19.01.2011 indicates that the land in issue, was sold without seeking permission/approval of Assistant Collector in terms of Section 157 AA of the Act of 1950. It is in view of the fact that vendor was of Scheduled Caste category and land in issue, was sold to a person of unreserved category by an unregistered deed, as per which possession of the land was provided to purchaser, and in this view of the matter the permission/approval was required in terms of Section 157 AA of the Act of 1950.

The order dated 19.01.2011 provides that the land transferred be recorded in the name of State Government.

It would be apt to indicate that as per the case of the petitioners the 'Patta' of land in issue, was provided to Ram Jiyavan and after his death, in the revenue records related to land in issue the name of his two sons namely Jwala Prasad and Jagmohan were entered.

Being aggrieved by the order dated 19.01.2011 an appeal was filed by Jwala Prasad son of Ram Jiyavan and Ravi son of Jagmohan.

The aforesaid appeal was registered as Appeal No. 44/2011-12 (Jwala Prasad and Others Versus Sub Divisional Officer/Assistant Collector First, Bakshi-Ka-Talab, District Lucknow and another) under Section 331 of the Act of 1950. This appeal was dismissed vide order dated 15.05.2013.

After dismissal of first appeal vide order dated 15.05.2013, Ramsaran son of Jwala Prasad and Ravi son of Jagmohan filed the second appeal in the month of July 2019 alongwith an application seeking condonation of delay, duly supported with an affidavit. It would be apt to indicate relevant paragraphs of the affidavit, filed in support of the application for condonation of delay, which are as under:-

"2. यह कि शपथी के पिता ज्वाला प्रसाद ही वाद उपरोक्त की पैरवी करते थे जिनकी मृत्यु हो गई है और राजस्व खतौनी में शपथी का नाम अंकित हो चुका है तथा वाद उपरोक्त के बाबत शपथी को कोई जानकारी नहीं हुई। जून 2019 में स्थानीय लेखपाल द्वारा शपथी को अवगत कराया गया कि प्रश्नगत आराजी राज्य सरकार में निहित है तथा शीघ्र ही सरकार द्वारा कब्जा कर लिया जावेगा, तो शपथी द्वारा अवगत कराया गया कि जमीन के सम्बन्ध में कमीशनर लखनऊ के यहां मुकदमा चल रहा है तो लेखपाल ने मुकदमे से सम्बन्धित कागज दिखाने को कहा।

3. यह कि शपथी ने काफी प्रयास के पश्चात अधिवक्ता आर.पी. यादव के माध्यम से मुकदमे के सम्बन्ध में जानकारी किया तो अवगत कराया गया कि शपथी का मुकदमा दिनांक 15.05.2013 को अपर आयुक्त न्यायिक लखनऊ मण्डल लखनऊ द्वारा निर्णीत कर दिया गया है और प्रश्नगत आदेश को प्रवर न्यायालय में चुनौती दिया जावेगा।

4. यह कि शपथी ने धन आदि की व्यवस्था किया और अधिवक्ता के माध्यम से अपील न्यायालय श्रीमान जी के समक्ष योजित की जा रही है, अपील योजित करने में हुई विलम्बता शपथी द्वारा जानबूझकर नहीं की गई है जो विलम्बता हुई है मात्र जानकारी के अभाव में हुई है जो न्यायहित में मर्षित किए जाने योग्य है।

5. यह कि शपथी कानून की जानकारी न रखने वाला ग्रामीण नागरिक है और परीक्षण न्यायालय द्वारा शपथी के पिता आदि को वाद के बारे में कोई सम्मन सूचना नहीं दी गई जिसकी वजह से पक्ष प्रस्तुत नहीं किया जा सका है और एकपक्षीय आदेश पारित किया गया है, यह विधि की सुस्थापित व्यवस्था है कि पक्षों को साक्ष्य एवं सुनवाई का अवसर देकर गुण दोष के आधार पर न्यायनिर्णय किया जा सके जिससे प्रभावित पक्षकार को न्याय एवं प्राकृतिक न्याय में विहित प्राविधानों का लाभ प्राप्त हो सके।

6. यह कि माननीय प्रवर न्यायालयों की भी अनेकानेक विधि व्यवस्थाएं हैं कि विलम्बता बिन्दु पर उदारवादी दृष्टिकोण अपनाकर न्यायनिर्णय किया जावे तथा प्रभावित पक्षकार को गुण दोष के आधार पर न्यायनिर्णय हेतु अवसर मिल सके इसलिए शपथी को भी अपील प्रस्तुत करने में हुई विलम्बता को मर्षित कर अपील अन्दर मियाद मानते हुए गुण दोष के आधार पर न्यायनिर्णय किया जाना

न्यायहित में समीचीन होगा, अन्यथा शपथी को अपूर्णनीय क्षति होगी जिसकी भरपाई किसी भी दृष्टि से सम्भव न होगी।"

The second appeal was dismissed, after taking note of the issue of limitation vide impugned order dated 22.05.2023. The operative portion of impugned order dated 22.05.2023 reads as under:-

"यह द्वितीय अपील उ०प्र० जमींदारी विनाश अधिनियम की धारा-331(4) के अन्तर्गत अपर आयुक्त (न्यायिक), आजमगढ़ मण्डल के न्यायालय द्वारा अपील/वाद संख्या-44/2011-12 में पारित आदेश दिनांक 15.05.2013 के विरुद्ध दायर की गयी है।

सुनवाई तिथि 01.05.2023 को अपीलकर्ता के विद्वान अधिवक्ता एवं प्रतिपक्षी की ओर से विद्वान स्थायी अधिवक्ता को अपील दायर करने में हुए विलम्ब एवं ग्राह्यता पर सुनकर पत्रावली आदेश हेतु सुरक्षित की गयी थी।

3. उभयपक्ष द्वारा की गयी बहस एवं पत्रावली पर प्रस्तुत कागजातों के परीक्षण से यह स्पष्ट है कि यह अपील 06 वर्ष के विलम्ब से दायर की गयी है। निगरानीकर्ता का यह दायित्व है कि वह विलम्ब के बिन्दु पर इस न्यायालय में संतोषजनक आधार/तर्क प्रस्तुत करते परन्तु उनके द्वारा विलम्ब के बिन्दु पर संतोषजनक कारण प्रस्तुत नहीं किया जा सका जिससे कि विलम्ब के बिन्दु को क्षमा किया जाने औचित्य/आधार स्पष्ट हो सके। अतएव यह निगरानी अत्यन्त कालबाधित होने के कारण विलम्ब के बिन्दु पर ही निरस्त किये जाने योग्य है।

4. यह विदित है कि विवादित आराजी पट्टे की थी, विक्रेता द्वारा अन्तरण से पूर्व सक्षम स्तर से अनुमति प्राप्त नहीं की गयी थी। अतएव जमींदारी विनाश अधिनियम की धारा-157क(क) के प्राविधान से यह प्रकरण आच्छादित होने के कारण भूमि राज्य सरकार में निहित किये जाने का आदेश परीक्षण न्यायालय द्वारा पारित किया गया। प्रथम अपीलीय न्यायालय द्वारा भी परीक्षण न्यायालय के आदेश को विधि सम्मत बताते हुए उसे पुष्टित किया गया है। अपीलकर्ता द्वारा यह भी स्पष्ट नहीं किया गया है कि ज्वालाप्रसाद की मृत्यु कब हुई अर्थात् ज्वालाप्रसाद के स्थान पर उसका नाम नामांतरण कार्यवाही में कब दर्ज हुआ। अपीलकर्ता की ओर से इस अपील की ग्राह्यता पर ऐसा कोई विधिक आधार अथवा औचित्य स्पष्ट नहीं किया जा सका जिससे कि यह अपील सुनवाई हेतु ग्राह्य की जा सके।

5. प्रकरण के सम्यक परिशीलनोपरान्त अपीलकर्ता की ओर से निर्मित किये गये विधि के सारवान बिन्दु माननीय सर्वोच्च न्यायालय द्वारा अपील (सिविल) 4306/2007 "Boodireddy Chandraiah and Ors. versus Arigela Laxmi and Anr" में पारित आदेश दिनांक 17.09.2007 में प्रतिपादित दिशा निर्देशों के अनुरूप नहीं है। इस सम्बन्ध में उ०प्र० राजस्व संहिता अधिनियम की धारा-215 प्रासंगिक है जो निम्नानुसार है—

215. प्रक्रिया में अनियमितता के कारण आदेश अविधमान्य नहीं होंगे—

“किसी राजस्व अधिकारी द्वारा पारित कोई आदेश इस संहिता के अधीन किसी जांच या अन्य कार्यवाही के पूर्व या उसके दौरान सम्मन, नोटिस, उद्घोषणा,

वारंट या आदेश अथवा अन्य कार्यवाही में त्रुटि, लोप या अनियमितता मात्र के कारण किसी अपील या पुनरीक्षण में तब तक उल्टा या परिवर्तित नहीं किया जायेगा जब तक कि ऐसी त्रुटि, लोप अनियमितता से वास्तव में न्याय का हनन न हुआ हो।”

6. उ0प्र0 राजस्व संहिता अधिनियम की धारा-215 के सम्यक निर्वर्चन से भी स्पष्ट है कि इस प्रकरण में अपीलकर्ता का प्रथमदृष्ट्या अहित होना प्रतीत नहीं हो रहा है क्योंकि विवादित आराजी के सम्बन्ध में दोनों अधीनस्थ न्यायालयों द्वारा अधिनियम में प्राविधानित व्यवस्थानुसार ही निर्णय पारित किये गये हैं। अतएव इस अपील में प्रथम अपीलीय न्यायालय द्वारा पारित आदेश में हस्तक्षेप की आवश्यकता नहीं पायी जाती है। यह द्वितीय अपील कालबाधित होने के आधार के साथ ही विधिक रूप से बलहीन होने के कारण भी ग्राह्य नहीं है। तदनुसार यह अपील ग्राह्यता स्तर पर ही निरस्त की जाती है। इस आदेश की प्रति सहित अवर न्यायालय का अभिलेख वापस किया जाये। परिषद न्यायालय द्वारा पारित स्थगन आदेश यदि कोई हो तो उसे निरस्त किया जाता है। पत्रावली संचित अभिलेखागार हो। "

Considered the aforesaid as also the submissions advanced by learned Counsel for the petitioner, who submitted that proper explanation was given for condoning the delay in the affidavit filed in support of application seeking condonation of delay, and the submission advanced by learned State Counsel and also the learned Counsel for Gaon Sabha, who supported the impugned orders, and perused the records.

At this stage, the issue of limitation has to be considered and as such this Court is only considering the facts which are relevant for answering the question as to whether explanation given in the affidavit filed in support of application for condonation of delay in filing the second appeal by Ram Saran son of Jwala Prasad and Ravi son of Jagmohan is just and proper.

The aforesaid is in view of the law settled. As per settled law for the purposes of condonation of delay, the concerned party has to explain sufficient cause for not approaching the court/authority concerned within time prescribed under the statutory provision.

The law on the issue of dealing with the applications for condonation of delay is well settled. This Court as also Hon'ble Apex Court in various judgments have held that an opportunity of hearing should be given and the hearing should not be shut

down and in the said judgments, it is also settled that liberal, pragmatic, justice oriented and non pedantic approach should be taken by the Courts concerned while dealing with the applications for condonation of delay so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned. The Courts concerned while dealing with such applications should also consider the fact that whether the delay has sufficiently been explained or not. The manner of exercising discretion in matters relating to condonation of delay is fairly well settled and it has been consistently held that while exercising discretion in such matters, the words "sufficient cause" under Section 5 of The Limitation Act, 1963, should be construed in a liberal manner and in the absence of anything showing malafide or deliberate delay as dilatory tactics, the Court should normally condone the delay. It is also settled principle of law that the discretion if exercised by the Courts concerned then the Appellate Courts should not interfere in the discretion exercised by the Courts concerned, if the discretion so exercised has been exercised judicially and not arbitrarily.

The Hon'ble Apex Court in the case of ***Ramji Dass and others v. Mohan Singh, 1978 ARC 496*** has held that as far as possible, Courts' discretion should be exercised in favour of hearing and not to shut out hearing. In that case the appeal was filed against an ex-parte decree after eight years and the District Court as well as the High Court had rejected the matter on the ground of delay. However, setting aside the order of the High Court, Hon'ble Apex Court observed as under:

"... we are inclined to the view that, as far as possible, Courts' discretion should be exercised in favour of hearing and not to shut out hearing. Therefore, we think that the order of the High Court should not have been passed in the interest of Justice which always informs the power under S. 115 C.P.C. ..."

The manner of exercising discretion by Courts in matters relating to condonation of delay was subject matter of consideration in the case of ***N. Balakrishnan Vs. M.***

Krishnamurthy; (1998) 7 SCC 123, wherein Hon'ble Apex Court observed as under:-

"9. It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.

10. The reason for such a different stance is thus:

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general

welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, AIR 1969 SC 575 and State of W.B. v. Administrator, Howrah Municipality, (1972) 1 SCC 366 ."

In the case of ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nefar Academy and others reported in (2013) 12 SCC 649***, the issue before the Apex Court was that whether the High Court rightly condoned the delay of 2449 days in challenging the interim order dated 25.02.2004, which was duly communicated to the authorities and even for compliance of the same, the District Inspector of Schools, Howrah on 24.01.2006, directed the school authorities to comply with the directions issued vide order dated 25.02.2004. The Apex Court after considering the earlier judgments allowed the appeal and set aside the order of the High Court, condoning the delay. In the case of ***Esha Bhattacharjee (supra)***, the Apex Court in para 21 of the judgment culled out the principles on the issue of condoning the delay, which are as under:-

"21. From the aforesaid authorities the principles that can broadly be culled out are:

21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these

terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which

is founded on objective reasoning and not on individual perception.

21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude."

In the case of ***Brijesh Kumar and others v. State of Haryana and others reported in (2014) 11 SCC 351***, the Hon'ble Apex Court observed as under:-

"6. The issues of limitation, delay and laches as well as condonation of such delay are being examined and explained everyday by the courts. The law of limitation is enshrined in the legal maxim interest reipublicae ut sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

7. The Privy Council in General Accident Fire and Life Assurance Corpn. Ltd. v. Janmahomed Abdul Rahim [(1939-40) 67 IA 416 : (1941) 53 LW 212 : AIR 1941 PC 6] , relied upon the writings of Mr Mitra in Tagore Law Lectures, 1932 wherein it has been said that:

A law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on equitable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognised by law.

8. In P.K. Ramachandran v. State of Kerala [(1997) 7 SCC 556 : AIR 1998 SC 2276] , the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under:

"6. Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds."

9. While considering a similar issue, this Court in Esha Bhattacharjee v. Raghunathpur Nafar Academy [(2013) 12 SCC 649 : (2014) 1 SCC (Civ) 713 :

(2014) 4 SCC (Cri) 450] laid down various principles inter alia: (SCC pp. 658-59, paras 21-22)

"21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach.

22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters."

10. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone."

On the issue of condonation of delay, the Hon'ble Apex Court in the case of **Bhivchandra Shankar More v. Balu Gangaram More** reported in **(2019) 6 SCC 387**, observed as under:-

"15. It is a fairly well-settled law that "sufficient cause" should be given liberal construction so as to advance sustainable justice when there is no inaction, no negligence nor want of bona fides could

be imputable to the appellant. After referring to various judgments, in B. Madhuri [B. Madhuri Goud v. B. Damodar Reddy, (2012) 12 SCC 693 : (2013) 2 SCC (Civ) 546] , this Court held as under:

“6. The expression “sufficient cause” used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for deciding the applications for condonation of delay but over the years courts have repeatedly observed that a liberal approach needs to be adopted in such matters so that substantive rights of the parties are not defeated only on the ground of delay.”

16. Observing that the rules of limitation are not meant to destroy the rights of the parties, in N. Balakrishnan v. M. Krishnamurthy [N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123], this Court held as under:-

“11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.....”

Recently the Hon'ble Apex Court in the case of ***Ajay Dabra Versus Pyare Lal and others*** reported in **2023 SCC OnLine SC 92**, on the issue of dealing with an application for condonation of delay, observed as under:-

"12. This Court, while emphasizing the scope of Section 5 of the Limitation Act, in the case of Mahant Bikram Dass Chela v. Financial Commissioner, Revenue, Punjab, Chandigarh (1977)4 SCC 69 has held:

"21. Section 5 of the Limitation Act is a hard task-master and judicial interpretation has encased it within a narrow compass. A large measure of case-law has grown around Section 5, its highlights being that one ought not easily to take away a right which has accrued to a party by lapse of time and that therefore a litigant who is not vigilant about his rights must explain every day's delay. These and similar considerations which influence the decision of Section 5 applications are out of place in cases where the appeal itself is preferred within the period of limitation but there is an irregularity in presenting it. Thus, in the instant case, there was no occasion to invoke the provisions of Section 5, Limitation Act, or of Rule 4, Chapter I of the High Court Rules. If the Division Bench were aware that Rule 3 of Chapter 2-C is directory, it would have treated the appeal as having been filed within the period of limitation, rendering it inapposite to consider whether the delay caused in filing the appeal could be condoned."

13. This Court in the case of Basawaraj v. Special Land Acquisition Officer (2013) 14 SCC 81 while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification,

putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."

In this case the delay is about 2190 days. This Court considered the explanation given in the affidavit filed in support of application for condonation of delay in the light of the law enunciated on the issue of dealing with an application for condonation of delay.

Upon due consideration this Court is of the view that the explanation given by the petitioners for the purposes of condoning the delay of 2190 days in filing the second appeal is not sufficient. It is for the following reasons:-

(i) The first appeal was filed by Jwala Prasad (predecessor-in-interest of petitioner no.1) and Ravi (predecessor-in-interest of petitioner no.2 to 6) and both were aware about the order of dismissal of first appeal dated 15.05.2013.

(ii) After dismissal of appeal Jwala Prasad died, however in the petition the date of his death has not been indicated in specific term and on being asked, learned Counsel for the petitioners based upon the instructions says that Jwala Prasad died in the year 2014 and despite this, the appeal was not filed within reasonable time and it was filed after huge delay of 2190 days.

(iii) After huge delay of 2190 days the second appeal alongwith an application for condonation of delay was filed by Ramsaran (appellant no.1) and Ravi (appellant no.2), who was one of the appellant in first appeal which was dismissed on 15.05.2013 and being so the Ravi was aware of order dated 15.05.2013.

(iv) From the affidavit, sworn by Ramsaran (appellant no.1), filed in support of application for condonation of delay, it appears that Ramsaran (appellant no.1 son of Jwala Prasad), came to know about the order under appeal dated 15.05.2013 in the month of July 2019 and this assertion related knowledge of order dated 15.05.2013, to the view of this Court, is not

correct as Ravi (appellant no.2/predecessor-in-interest of petitioner nos. 2 to 6) was one of appellants in first appeal dismissed vide order dated 15.05.2023 and further, in this affidavit on explanation has been given as to why Ravi/appellant no.2 (predecessor-in-interest of petitioner nos. 2 to 6) has not filed the appeal within time.

For the reasons aforesaid, the present petition is liable to be dismissed. It is ***dismissed*** accordingly. Cost made easy.

Order Date :- 15.2.2024

Jyoti/-