

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-484-CI of 2012 in/and
RFA-252 of 2012 (O&M)
Date of decision:24.02.2015**

Municipal Corporation

..... Appellant

VERSUS

Vinod Kumar and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. C.S. Singh, Advocate for
Mr. G.S. Hooda, Advocate
for the appellant.

Mr. M.L. Sarin, Senior Advocate with
Mr. Nitin Sarin, Advocate
for respondent No.1.

Mr. Abhinash Jain, AAG, Haryana
for the State.

AMIT RAWAL J. (ORAL)

The aforesaid appeal has been filed by the applicant-Municipal Corporation, is accompanied by an application under Section 5 of Indian Limitation Act seeking condonation of delay for 616 days in filing the appeal.

The aforementioned appeal has been filed against the award of the reference Court passed under Sections 18 and 30 of the Land Acquisition Act, 1894. For deciding of the application seeking condonation of delay, it would be apt to extract the contents of application seeking condonation of delay:-

- 1. That the appellant is filing the accompanying appeal in this Hon'ble Court.*
- 2. That the above mentioned appeal was filed in the Hon'ble Court 31.01.2011 and registry of the Hon'ble Court has raised the certain objection on 04.03.2011 at that time there is only a delay of 365 days. Thereafter the appeal was re-filed on 19.10.2011 and same was return on 09.11.2011.*
- 3. That the condonation of delay in filing the appeal has occurred on account of the fact that sanction has to be taken from higher authority to file the appeal since it is departmental case and in this process the file has to go through various channels and thus a delay of 616 days has occurred.*
- 4. That the delay of 616 days in filing the appeal is neither intentional nor deliberate rather occurred due to the above mentioned facts and circumstances of the case, which were beyond the control of the appellant.*

It is therefore, respectfully prayed that keeping in view the above mentioned facts and circumstances of the case, the present application may be allowed and the delay of 616 in filing the appeal may kindly be condoned, in the interest of justice.

Notice of the application seeking condonation of delay was issued to the respondents including the State, and the respondents contested the application by filing the reply. However, the contents of the reply are also extracted herein below:-

- 1. That the above noted application deserves to be dismissed on the short ground that no cause, much less sufficient cause has been shown for condoning the delay of 616 days and thus, the appeal itself deserves to be dismissed on this ground.*
- 2. That the above noted application deserves to be dismissed on the short ground that the delay on the ground that “sanction had to be taken from higher authority to file the appeal” is no ground for condonation of delay and no sufficient cause has been shown in the present application to condone the long delay of 616 days.*
- 3. That the above application deserves to be dismissed on the short ground that the appellant has not approached this Court with clean hands and as such, the filing of the said appeal is a mere after thought.*
- 4. That the above noted application deserves to be dismissed on the short ground that the appellant has displayed complete ignorance and neglect qua the issue of limitation, as such, there is no ground for condonation of delay.*
- 5. That the applicant was well aware of the pendency of a cross appeal filed by the non-applicant, i.e. RFA No.4243 of 2010, which had been filed on 23.06.2010, as such, it does not lie in the mouth of the applicants to now say that they had sufficient cause for filing the present appeal with a long delay of 616 days.*

From the perusal of the reply, it reveals that the applicant was aware of the pendency of a cross appeal filed by the non-applicant-respondent i.e. *RFA No.4243 of 2010* which had been filed on 23rd June, 2010. The non-applicant further averred that obtaining of the sanction from the higher authority was not firm ground to explain the long delay of 616 days. In essence, the applicants have failed to give any sufficient cause in seeking the condonation of delay. The land Acquisition Collector also contested the application by filing a detailed reply stating therein that no sufficient reasons have been explained in seeking condonation of considerable delay of 616 days.

Mr. C.S. Singh, Advocate learned counsel appearing for Mr. G.S. Hooda, Advocate, submits that since the appeal has been filed by a public body and, therefore, some acceptable latitude be given to the public body in seeking the condonation of delay as substantial justice is the paramount and pivotal and technical consideration should not come in the way or considered while showing the delay.

Mr. M.L. Sarin, learned Senior counsel appearing on behalf of non-applicant-respondent, in support of his contentions submitted that no cogent and reasonable explanation has come forth in the application seeking condonation of delay and the State

Government or the public body should be placed on equal footings in the matters of condonation of delay. Although, a liberal view can be taken to advance substantial justice to that but only in exceptional cases, where the public body has given a reasonable and acceptable explanation for the delay.

In support of his aforementioned arguments, he has relied upon the judgments in *The State of Punjab and others vs. Charanjit Singh 1993 PLJ 597; Smt. Tara Wanti vs. State of Haryana 1964(2) PLR 761(FB); State of Haryana and others vs. Dal Chand and others 2008(4)PLR 85; Union of India and others vs. Makhan Singh 2010(2) PLR 51; State of Haryana and another vs. Surjit and another 2014(4) PLR 709*, to contend that the case of the applicant do not fell in any of the parameters laid down by the Hon'ble Supreme Court as well as by this Hon'ble Court. By relying upon the judgment of *Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy (SC):2013 (4) RCR(Civil) 785*, learned senior counsel has referred to paragraph 17, 21 and 22 and submitted that the statutory bodies cannot remain totally indifferent to the order passed by the Court and the Court while considering the application for condonation of delay should not focus on the merits of the case, as it would amount to misdirection. He further submits that a law of

limitation fixes a life span for such legal remedy for the redress of the legal injuries so suffered and the time is also precious and time which has been wasted or lapsed can never be revisited and if a person allows the limitation to lapse many new things would sprout up, so the lifespan must be fixed for each remedy. In essence, he submitted that unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Therefore, law of limitation has to be interpreted in a most pragmatic manner.

I have heard learned counsel for the parties and appraised the contents of the application as well as the case law cited by the learned counsel for the non-applicant and am of the view that application is liable to be dismissed for the following reasons:-

The contents of the application reveals that no cogent, much less reasonable explanation has been given seeking condonation of delay. The application has been drafted in a most casual and a vague manner. The pleadings are not only evasive but vague. Time and again, occasion has arisen before this Court as well as Hon'ble Supreme Court to ponder on the proposition seeking condonation of delay, particularly, the cases filed by the State or the public authorities or bodies. The public bodies/State

have to be considered on the same footing as with regard to any other common litigant. They cannot be permitted to take liberty or adopt lackadaisical approach. Time has come to curtail the latitude which the State/public authorities have been seeking in the past by filing the appeal. There is stark difference between an inordinate delay and delay of few days but the fact remains for seeking the condonation of inordinate delay or a few days has to be on some reasonable explanation which is conspicuously absent in the application in hand.

The word sufficient cause is of wide amplitude and it has to be examined by noticing the facts of each application as to whether the contents of the application reveal exercise of due diligence.

In view of what has been observed the application seeking condonation of 616 days is dismissed and accordingly, appeal is also dismissed being time barred.

February 24, 2015
m. sharma

(AMIT RAWAL)
JUDGE