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HIGH COURT OF DELHI AT NEW DELHI

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RSA No.45/2015

Decided on : 13th January, 2015

HARKESH (DECEASED) THR LRS

..... Appellant

Through: Mr.Raj Bahadur Singh, Adv.

versus

UNION OF INDIA & ANR

..... Respondent

Through: Mr.Dhanesh Relan, Adv.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

CM No.591/2015

1. Allowed subject to deficiency being rectified.
2. The application stands disposed of.

CM No.590/2015 (For Condonation of Delay of 1174 days)

1. This is an application seeking condonation of delay of 1174 days in filing the present appeal.
2. It has been stated in the application seeking condonation of delay that the order which is being assailed in the present appeal is dated 27.09.2011. The appellants applied for certified copy in the

first week of January, 2012 and got the same on 18.01.2012, but the appellants could not contact his counsel as all the similar appeals had been dismissed by the this Court on 07.06.2011. It is stated that the appellants filed an execution petition in the trial court for receiving the enhanced compensation only on 03.12.2004, which they have received and thereafter the appellants were advised by the present counsel that they should file an appeal for further enhancement of compensation before the Hon'ble Supreme Court because the other co-sharers/co-villagers have filed a special leave petition before the Hon'ble the Supreme Court against the order of dismissal passed by the High Court. Hence the present appeal is filed.

3. The appellants are illiterate persons and do not know anything about law of limitation and, therefore, the delay of 1174 days has occurred in filing the present appeal.

4. It has been stated that the appellants *prima facie* have a good case and are likely to succeed and the market value of the land may be enhanced by this court as the trial court has assessed the market value of the land in question at the rate of Rs.89,600/- per bigha,

which is ridiculously low and thus condonation of delay of 1174 days is sought.

5. I have heard the learned counsel for the appellants and have also gone through the record. The Section 5 of the Limitation Act, 1996 lays down that the delay in filing the appeal or an application may be condoned if 'sufficient cause' is shown. The words 'sufficient cause' has been interpreted to be a cause which is beyond human control. While interpreting the words 'sufficient cause', the court has observed that quantum of delay is not relevant. What is relevant are the bona fides of a party in prosecuting the matter. In the instant case, the bona fides of the appellants are not genuine in preferring the appeal and consequently the quantum of delay also becomes important.

6. As a matter of fact the quantum of delay is not 1174 days but it is approximately 1195 days. This is on account of the fact that admittedly the order of the High Court was passed on 27.09.2011. The present appellants did not apply for certified copy till the expiry of period of limitation or any other words, as per their own version, applied for the same in the first week of January, 2012 i.e. after expiry of more than 90 days which is the maximum period

within which the appeal can be filed. The said certified copy has been delivered to the appellant on 18.01.2012. Because of these reasons, the period of time spent by the appellants in obtaining the certified copy could not be deducted from the period of limitation or in other words, the period of limitation in the instant case will be reckoned from 28.09.2011 that is immediately on the next of the judgment and since the appeal itself has been filed on 05.01.2015, the period in between both days inclusive would come to 1195 days approximately which is the period of delay involved in filing the instant appeal.

7. The application does not use even the words 'sufficient cause'. The appellants seem to be fence sitters and having chosen not to file an appeal in time, have belatedly become wise as the other co-sharers/co-villagers have gone to the Supreme Court for enhancement of compensation on account of dismissal of their respective appeals in the High Court. The appellants have a feeling that in case the co-sharers are able to get the compensation enhanced then they would be a loser as they cannot get enhanced compensation; hence, the present appeal has been filed. Thus, the appellants also want to ride the said bandwagon and take a chance

that in case other co-sharers/co-villagers succeed in obtaining the enhancement, then they should also benefit. In other words, the appellants are trying to speculate and, therefore, take advantage of this speculation in getting the compensation enhanced.

8. The purpose of limitation of law is to give finality to the judgments. The purpose of law of limitation is also to ensure that a party should not be permitted to rake up stale claims. In other words, the law help those who are vigilant to protect their own rights.

9. In the instant case, the dismissal of the present appeal after condoning the delay in filing the appeal would permit the appellants to take advantage of the judgment of the Supreme Court if the same is favourable to other co-sharers/co-villagers in getting the enhanced compensation. This cannot be permitted to be done as this is a kind of speculative litigation.

10. For these reasons, I feel that the appellants have not been able to explain sufficient cause of filing the appeal belatedly and accordingly the applications seeking condonation of delay are dismissed.

LA.Appeal No.45/2015

1. Since the application seeking condonation of delay in filing the appeal has been dismissed, the appeal is also dismissed as being barred by time.

V.K. SHALI, J

JANUARY 13, 2015/dm