

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **LA. Appeal No.67/2015 & C.M. Nos.1846-1848/2015**

Decided on : 2nd February, 2015

UNION OF INDIA Appellant
Through: Ms. Jyoti Tyagi for Mr. Yeeshu Jain,
Advocate.

Versus

RAKESH KUMAR & ANR. Respondents
Through: Ms. Mrinalini S. Gupta, Adv. for DDA.

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is an appeal filed by the appellant against the judgment dated 13.2.2013. Along with the appeal there are two applications bearing Nos.1847/2015 and 1848/2015 seeking condonation of 240 days delay in filing and 320 days delay in re-filing the appeal.

2. I have heard the learned counsel for the appellant and have also gone through the record. There is no dispute about the fact that delay in filing the appeal can be condoned provided a party is able to show 'sufficient cause' which prevented him from filing the appeal within time. For this purpose, one has to see as to what averments are made by a party

in the petition. It has been stated in the application seeking condonation of delay that the impugned judgment was passed on 13.2.2013 and certified copy of the judgment was received by the appellant on 26.2.2013. The same was forwarded to the Deputy Legal Advisor for opinion which was given on 8.3.2013 stating that an appeal deserves to be filed. The papers were put up before the Principal Secretary for approval and sanction was received on 15.3.2013 which was communicated to them on 25.3.2013. On the same date, the matter was brought to the notice of Naib Tehsildar/Patwari for taking an action at the earliest. Thereafter, it has been stated that it took some time to send the papers to the panel lawyer which was only towards the end of June, 2013 when the draft could be prepared and this resulted in 240 days delay.

3. No further information beyond the month of June, 2013 has been given by the appellant as to what were the reasons which had occasioned the delay. Therefore, it cannot be said that in the absence of the reasons given by the appellant, it can be presumed that the appellant was prevented by any 'sufficient cause'. As a matter of fact, if one sees the averments made in para 3 of the application seeking condonation of delay in filing the appeal, the permission by the Principal Secretary, Land &

Building, was granted almost within a month but despite the permission having been granted, the appellant was lax in pursuing the matter so as to ensure that the appeal is filed within time. It is inertia on the part of the officials in taking timely action which is further reflected from the fact that even if this 240 days delay is condoned, still there is a delay of 320 days in re-filing the appeal which is much more than the original delay of 240 days in filing the appeal, for which a separate application has been filed by the appellant. In this application also, no cogent reason has been given to explain as to how this delay of 320 days in re-filing has been caused.

4. It may be pertinent here to point out that as and when a petition is filed in the Registry and objections are raised, the instruction are that the petitions which are collected for the purpose of removal of the defects, must be filed within a period of one week because the purpose of ensuring that the re-filing is done within a week's period from the date of collection is essentially to ensure that there is no inordinate time wasted by a party later than that although the original appeal was filed within time but delay in re-filing can be and has to be treated as delay in original filing.

5. For these reasons in order to curb this unethical practice of filing incomplete papers, where objections are raised, instructions have been issued that re-filing also has to be done expeditiously within a week or so. One can ignore and condone the delay if it is reasonable and adequate explanation is furnished by a party for some pressing reasons because of which re-filing could not be done but in the instant case, not only no reasons are given for delay but even the quantum of delay on the part of the appellant in re-filing clearly shows that both before filing of the appeal and even after filing of the appeal was being done casually as if the delay at both the stages would be condoned as a matter of course.

6. The law of limitation is equally applicable both to the private parties as well as the government bodies. The same set of yardstick has to be applied to both the parties. Therefore, merely because the appellant is a government body, it cannot be said that it can be shown in due favour of condoning the delay of 320 days in re-filing and 240 days in filing only on the basis of the applications, which are bereft of any details and convincing reason which may be construed to be constituting 'sufficient cause'. Moreover, the learned counsel has admitted that the main appeal

against the same and award has already been dismissed long back against which an SLP is pending.

7. For the abovementioned reasons, the delay applications are dismissed and as the applications are dismissed, the appeal is also barred by time. Accordingly, the appeal is also dismissed.

V.K. SHALI, J.

FEBRUARY 02, 2015
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