

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 12th January, 2015

+ LPA No.2/2015 & CM No.2/2015 (for condonation of 114 days delay in re-filing the appeal)

INDER SINGH

..... Appellant

Through: Dr. Alok Sharma, Adv.

Versus

**UNDER SECRETARY,
MINISTRY OF HOME AFFAIRS**

..... Respondent

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Vinod Tiwari, Adv. for UOI.

CORAM :-

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J

1. This intra-court appeal impugns the order dated 1st July, 2014 of the learned Single Judge of this Court of dismissal *in limine*, on the ground of laches, of W.P.(C) No.2818/2014 preferred by the appellant.
2. Though this appeal is accompanied with an application for condonation of 114 days delay in re-filing thereof and further though there is no valid ground shown for condonation of such long delay in re-filing but having *prima facie* not found any merit in the appeal also, we have, without adverting to the delay, heard the counsel for the appellant at length on the merits of the appeal.

3. The appellant filed the writ petition from which this appeal arises, for a direction to the respondent i.e. Under Secretary, Ministry of Home Affairs (FFR Division) to take necessary action on the representation dated 20th January, 2013 made by the appellant. The said representation was made by the appellant invoking the provisions of Section 2(4) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, for compensation / land / property in lieu of land left in Pakistan, contending; i) that the appellant along with his father Sh. Hari Singh and his brother Sh. Sumer Singh, in the year 1947, were compelled to leave their property and agricultural land in Pakistan and to come to Delhi as refugees; ii) that the father of the appellant submitted the 'Claim Form-A' with respect to building and plot left in Pakistan; iii) that on 23rd May, 1952 order was passed on the said claim made by the father of the appellant; iv) that on 15th January, 1953, the claim of the father of the appellant was verified for Rs.40,600/- only; v) that the father of the appellant was also having agricultural land ad-measuring 18 acres and qua which also the claim was made but on which no action was taken by the Government; vi) that the brother of the appellant in 1964 again made a claim with respect to the said 18 acres of land; vii) however no action was taken on the claim so made by

the brother of the appellant also; viii) that the father and brother of the appellant were looking after the claim for the aforesaid agricultural land; ix) that the daughter of the appellant was seriously ill and was under medical treatment; and, x) the appellant thus made the representation dated 28th January, 2013 for compensation for the 18 acres of agricultural land left in Dera Ismail Khan in Pakistan.

4. The appellant in the writ petition from which this appeal arises, in addition stated that; a) he was in service with Armoured Fighting Vehicles Depot, Kirkee, Pune as an Electrician and took voluntary retirement on 28th February, 1982; b) that he thereafter also could not take up the matter of claim, on account of illness of his daughter; and, c) that his daughter died in the year 1994.

5. The learned Single Judge, as aforesaid, dismissed the writ petition, finding / observing / holding; (i) that the cause of action for claiming of alternative land arose in 1947; (ii) that between the year 1964 and 2013, the matter was not pursued; (iii) that the Supreme Court in *State of Madhya Pradesh Vs. Bhailal Bhai* AIR 1964 SC 1006 and in *Banda Development Authority, Banda Vs. Moti lal Agarwal* (2011) 5 SCC 394 has held that

though no time period had been prescribed for bringing a petition under Article 226 of the Constitution of India but it has to be brought within a reasonable time and the standard whereof can be the time prescribed for bringing a action in the Civil Court and that if the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the delay should be treated as unreasonable and the High Court should decline to entertain the grievance of the petitioner on merits. Accordingly, the petition was dismissed on the ground of laches.

6. The appellant before us has sought to get out of the reasoning given by the learned Single Judge by contending; (a) that all that the appellant is wanting is a direction to the respondents to decide his representation which was made about one and a half years prior to the filing of the writ petition and the writ petition from the date of making of the representation was filed within the prescribed time; (b) that it is not for this Court but for the respondent authorities to state whether the appellant is entitled to the claim or not and whether the claim is time barred; (c) that it was rather the obligation of the respondent authorities to award such compensation to the appellant and which the respondent authorities had failed to do and the authorities could not take advantage of their own fault; and, (d) by relying

on the judgment dated 21st July, 2014 of the Supreme Court in Civil Appeals No.6599-6601/2014 titled ***Dhiraj Singh Vs. Haryana State*** whereby the Supreme Court reversed the decision of the Division Bench of the High Court dismissing the appeals preferred by the appellants therein against the orders of the Single Judge for enhancement of compensation for acquisition of land on the ground of being barred by time by observing that equities could be balanced by denying to the appellants interest for the period of delay and that the substantive rights of the appellants should not be allowed to be defeated on technical grounds in the matter of compensation for land acquisition.

7. We remain unimpressed.

8. Though the counsel for the appellant has argued that it was the obligation of the authorities to pay compensation but the counsel has failed to cite any statutory provision in this regard. On the contrary, a perusal of the Displaced Persons Act supra on which reliance is placed shows that not only was it the duty of the claimant to apply for compensation but to also, in the inquiry, support / prove the claim for compensation. The father of the appellant admittedly made a claim for compensation including for the 18 acres of agricultural land against which compensation is now claimed;

though compensation was admittedly awarded with respect to certain other properties but he was not awarded compensation for the agricultural land. The learned Single Judge has rightly held that the cause of action if any accrued to the father of the appellant in the year 1952-1956 itself when the compensation for agricultural land was not given. The appellant has not given the date of demise of his father. There is no explanation as to why the father of the appellant did not pursue the said claim. Though the brother of the appellant revived the claim in the year 1964 but there is no explanation as to why the brother of the appellant also did not pursue the same. It is not even stated whether the brother of the appellant is alive or not. It is well nigh possible, either that the claim was given or received by the father of the appellant or by the brother of the appellant, or was rejected. Merely because the father and brother of the appellant might have now died is no ground for the appellant to now revive the claim. Each successive generation cannot be permitted to revive the claims given up or not pursued by the previous generation. The subject of the claim is also such which was relatable to the events which happened in the country more than 60 years ago and with the passage of nearly 60 years, not only would the record have disappeared but the reason for which compensation was then offered has also become stale.

Such claims for compensation, arising from events of 60 years ago, cannot now be permitted to be revived. The recent judgment of the Supreme Court relating to compensation for land acquisition has no relevance thereto. Here, no property of the appellant has been acquired. In fact, the appellant did not even have any right in the general law, to such compensation. The right to claim and revive compensation had been conferred under a statute. The appellant / his predecessors having failed to press the said claim, the claim extinguished and cannot be permitted to be revived now.

9. The Supreme Court, in *Abdul Ghaffoor Vs. State of Bihar* (2011) 14 SCC 465 held that the law of limitation is indeed an important law on the statute book—it is in furtherance of sound public policy to put a quietus to disputes and grievances of which resolution and redressal are not sought within the prescribed time. The law of limitation is intended to allow things to finally settle down after a reasonable time and not to let everyone live in a State of uncertainty. It does not permit anyone to raise claims that are very old and stale and does not allow anyone to approach the higher tiers of judicial system for correction of the lower Courts orders or for redressal of grievances at one's own sweet will. It was further held that the law of limitation indeed must get due respect and observance by all Courts.

10. The contention of the appellant that he is merely seeking a direction for disposal of his representation is also misconceived. This Court would not blindly issue such a direction to the authorities concerned to decide stale claims. If such directions were to be issued, then the next step axiomatically would be to challenge the decision if any taken by the authorities on the said representation contending that it is only now that the decision has been taken. Moreover, it is the settled principle of law, reiterated recently by us in *Rosa Power Supply Co. Ltd. Vs. Union of India* MANU/DE/1858/2014 and in *Awasthi Construction Co. Vs. Govt. of NCT of Delhi* MANU/DE/5926/2012 that mere repeated reminders cannot keep the *lis* alive and extend the period of limitation, nor is a satisfactory explanation for delay.

11. We are therefore of the view that there is no justifiable reason to interfere with the order of the learned Single Judge. Accordingly, the appeal is dismissed.

RAJIV SAHAI ENDLAW, J.

CHIEF JUSTICE

JANUARY 12, 2015

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