

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24861 of 2016
Date of decision: 02.12.2016

M/s Blue Peaks Floriculture Limited

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.S. Madan, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the alleged inaction on the part of respondent authorities, petitioner has approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of mandamus.

Heard learned counsel for the petitioner.

When confronted with the inordinate long and unexplained delay of more than 13 and half years, in putting this claim on the basis of letter dated 04.02.2003 (Annexure P-5), learned counsel for the petitioner had no answer and rightly so, it being a matter of record. Even if the petitioner had some claim in the year 2003 on the basis of letter dated 04.02.2003 (Annexure P-5), it was least expected from the petitioner to pursue his remedy before the appropriate forum, in accordance with law but well within reasonable time.

However, petitioner kept on sleeping over his rights, if any, for an

inordinate long period of more than 13 and half years, for the reasons best known to it. Even if the suit for recovery is filed by the petitioner today itself, that would be hopelessly time-barred. In this view of the matter, it is clear that the petitioner is trying to cover up the inordinate long and unexplained delay of more than 13 and half years by way of present writ petition, which cannot be permitted in law.

It is also pertinent to note here that whosoever was vigilant about his/her rights, came to this Court in time and appropriate orders were passed, including Annexures P-6 and P-7. However, petitioner did nothing in this regard. Now, on one fine morning, after getting up from his slumber, petitioner moved his alleged representation dated 03.03.2016 (Annexure P-9), which was hardly of any consequence, it being related to a claim which was too old, stale and dead to be revived at this highly belated stage.

Under the abovesaid undisputed fact situation obtaining on the record of the present case, this Court would be exceeding its jurisdiction, while issuing any direction to the respondent authorities, to consider the highly belated and stale claim, after a gap of more than 13 and half years. It is so said because it would amount to reviving a dead claim, which is not permissible in law nor it would be the scope of writ jurisdiction of this Court under Articles 226/227 of the Constitution of India.

Further, the present writ petition has been found suffering from delay and laches, which cannot be entertained at this belated stage. On this aspect, the view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court as well as this Court in **B.S. Bajwa**

and another Vs. State of Punjab and others, (1998) 2 SCC 523, Union of India and others Vs. A. Durairaj (dead) by LR's, (2010) 14 SCC 389, Londhe Prakash Bhagwan Vs. Dattatraya Eknath Mane and others, 2013 (10) SCC 627, Government of India and another Vs. George Philip (2006) 13 SCC 1, Chennai Metropolitan Water Supply and Sewerage Board and others Vs. T.T. Murali Babu, 2014 (4) SCC 108, Chander Bhan Singal Vs. State of Haryana and others, 2016 (3) SCT 540, Kaptan Singh Vs. State of Haryana and others, 2016 (4) SCT 44 and the order dated 30.06.2014 passed by this Court in CWP No.12086 of 2014 (Rajinder Kaur Batish Vs. State of Punjab and others).

The relevant observations made by the Hon'ble Supreme Court in para 16 of its judgment in **T.T. Murali Babu's** case (supra), which can be gainfully followed in the present case, read as under:-

“Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or

not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorizedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may

have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with ‘Kumbhakarna’ or for that matter ‘Rip Van Winkle’. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.”

Learned counsel for the petitioner places reliance on a news item of a newspaper, Annexure P-8, which is undated. In fact, there is no date, month or year, when it was released. It would amount running a great risk in placing reliance on such kind of document which does not advance the case of the petitioner by any stretch of imagination. Similarly, order dated 22.08.2016, Annexure P-10 passed by this Court does not help the petitioner in any manner, it being nothing more than per incuriam. It is so said because there would have certainly be an explanation that would have been found plausible, reasonable and worth acceptance, which is conspicuously missing in the case in hand.

In the circumstances of the present case, totally unexplained and inordinate long delay of more than 13 and half years has left the petitioner disentitled for the discretionary and equitable relief at the hands of this Court. Having said that and respectfully following the law laid down by the Hon'ble Supreme Court in the cases referred hereinabove, it is unhesitatingly held that petitioner has not been found entitled for a writ in the nature of mandamus at this highly belated stage.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant writ petition stands dismissed, however, with no order as to costs.

02.12.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No