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

+ **LA.APP.119/2014**

Date of Decision: 23.05.2016

SH VIJAY SINGH & ORS. Appellants
Through Mr.B.D.Sharma, Advocate.

versus

UNION OF INDIA & ANR. Respondents
Through Mr.Sunil Kumar Jha, Advocate
for the respondent No.1/UOI.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ASHUTOSH KUMAR, J. (ORAL)

CM Appln. 18037/2016

1. The appellant/applicant had earlier preferred an application vide CM No.3854/2014 for condonation of delay of 1433 days in preferring the appeal along with LA Appeal No.119/2014.
2. The Land Acquisition Appeal No.119/2014 was dismissed for non prosecution on 16.07.2014 but later, the appeal was restored to its original file and number. However, the application seeking condonation of delay was not specifically restored.
3. Hence the present application has been filed seeking condonation of delay of 1433 days in filing the appeal.

4. The response to the earlier application seeking condonation of delay namely CM No.3854/2014 is already on record, and the same is taken to be the reply in the present application.

5. The learned counsel for the appellants/applicants submit that they were not aware of the impugned judgment and came to learn only when the cases of some of the other claimants were allowed. When the appellants/applicants came to know of the enhancement in compensation with respect to other claimants, they contacted their counsel and then came to learn about the same. Since the appellants/applicants belong to a far flung rural area and are not well educated so as to understand the nitty gritty of the legal process, they could not approach the Court on time.

6. The prayer of the appellant/applicant has been opposed on the ground that the appellants have acted with gross negligence in preferring the appeal. It has further been submitted that the grounds taken by the appellant/applicant seeking condonation of such huge delay does not disclose any cause much less “sufficient cause”. A regret has been expressed about unnecessary indulgence which is shown to the appellants in general in land acquisition appeals with regard to condonation of delay in preferring such appeals. The Supreme Court in several cases, it has been urged, has reiterated the principle that if there is inaction or want of bonafide or negligence of the appellant in approaching the Court in time, the delay ought not to be condoned.

7. The Supreme Court in **Basawaraj & Anr vs. Special Land Acquisition Officer: AIR 2014 SC 746** has clarified that equity is not

a ground to extend the limitation period by condoning the delay if there is no “sufficient cause”. The reason assigned by the Supreme Court is that an unlimited period of litigation would have an impact of rendering a sense of insecurity and uncertainty, depriving a successful party of enjoying the fruits of litigation as finality to a judgment is postponed.

8. However, while not disputing the aforesaid principles, the Supreme Court of India has also succinctly ruled in several cases that the expression “sufficient cause” ought not to be interpreted in a manner which would run counter to the very concept of justicing. No hyper technical approach is required to be adopted in dealing with limitation petitions more so when the appellants/applicants are not well aversed in letters of law or are well educated.

9. The Supreme Court in ***Collector, Land Acquisition, Anantnag v. Mst. Katiji, (1987) SCC 107*** has elucidated that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. The Supreme Court in *Collector, Land Acquisition, Anantnag (Supra)* has further gone on to state that there is no there is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. Similar views were expressed by the Supreme Court in ***N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123*** and held that the rules of limitation are not meant to destroy the rights of the parties.

What is required to be seen is whether parties are resorting to dilatory tactics.

10. In *State of Nagaland v. Lipok AO*, AIR 2005 SC 2191, the Supreme Court has observed that justice-oriented approach should be adopted. Unless a pragmatic view is taken, injustice is bound to occur.

11. In matters of land acquisition where the land is compulsorily acquired, different approach has to be taken. The land losers cannot be deprived of the reasonable compensation for their lands. If other situated land owners are given higher compensation, there is no reason to keep such benefits away from the other land losers.

12. For the reasons aforesaid, this Court is inclined to accept the plea of the appellant/applicant and the delay in preferring the appeal is condoned. However, to balance the equities, the appellant shall not be entitled to the interest for the period of delay in filing the appeal.

13. The application is allowed in terms of the above.

LA.APP.119/2014

1. Admit.

2. The present land acquisition appeal arises out of the judgment and decree dated 21.11.2009 passed by the learned ADJ, Dwarka Courts, New Delhi in LAC No.15/09/06 (Vijay Singh & Ors. vs. Union of India & Anr.) pertaining to village Pochanpur, New Delhi in respect of award No.30/02-03.

3. A notification under Section 4 of the Land Acquisition Act, 1894 (for short the 'Act') was issued for the acquisition of lands falling in various villages including village Pochanpur in which the land of the appellants fell on 13.12.2000. Thereafter a declaration

under Section 6 of the Act was issued vide notification dated 07.12.2001. The land of the appellants was acquired on 11.09.2002.

4. The Land Acquisition Collector, after completing all the formalities issued award No.30/02-03, whereby the compensation payable was fixed at the rate of 13.82 lakhs per acre.

5. The appellants were not satisfied with the market value assessed by the land acquisition collector and accordingly preferred a reference petition under Section 18 of the L.A. Act before the land acquisition collector for enhancement of compensation. The aforesaid application was referred to the Trial Court for proper determination of the market value of the acquired land.

6. The Reference Court vide judgment dated 21.11.2009 dismissed the reference holding that the appellants are not entitled to any further enhancement of compensation.

7. The Reference Court, in other references however, enhanced the compensation for some of the lands which were acquired but such enhancement was not applicable for the lands situated in Pochanpur village where the land of the appellants was situated. Other agriculturists/ land losers, thereafter, approached the High Court for enhancement of compensation. The acquiring authority had also filed their cross objections. The High Court enhanced the compensation awarded by the Reference Court by 10% over and above the value determined for Block A and Block C of the lands which were acquired. This also did not satisfy the other agriculturists/land losers and they approached the Hon'ble Supreme Court for further enhancement.

8. The Apex Court in Civil Appeal No.2091/2014 (SLP(C) No.18883/2012; Impulse India Pvt. Ltd. Vs. Union of India and Another) found that the compensation awarded to the land losers was on the lesser side.

9. Thus, keeping in view the peculiar facts and circumstances of the case as also other factors, the Supreme Court increased the compensation so awarded to 21 lacs and 19 lacs for Block A and Block B lands respectively. The aforesaid enhanced compensation was held to be common to all the lands of villages Bharthal, Bijwasan, Pochanpur and Dhul Saras villages. The appellants therein were also found to be entitled to all the statutory benefits provided under the provisions of the Land Acquisition Act.

10. The case of the appellants is covered by the judgment of the Supreme Court delivered in Civil Appeal No. 2091/2014 (SLP(C) No.18883/2012) (Impulse India P. Ltd. vs. Union of India & Anr.). This fact is not disputed by the respondents.

11. The appeal is thus disposed of in terms of the judgment referred to above namely Impulse India Pvt.Ltd vs. Union of India & Anr delivered on 13.02.2014 in Civil Appeal No.2091/2014 (SLP (C) No.18883/2012).

ASHUTOSH KUMAR, J

MAY 23, 2016

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