

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**First Appeal (M) No. 126 OF 2010**

State of Chhattisgarh through

1. The Collector, Janjgir-Champa Chhattisgarh
2. The Land Acquisition Officer, Sakti District Janjgir-Champa Chhattisgarh

---- Appellants**Versus**

Setram S/o Firturam R/o Village Sarhar Tahsil Sakti, District Janjgir-Champa Chhattisgarh

---- Respondent

For Appellant/State	: Mr. R. K. Jaiswal, P.L.
For Respondent	: Mr. Rupesh Shrivastava, Advocate

Hon'ble Shri Justice Sanjay Agrawal**Judgment On Board****27/04/2017**

1. Heard on an application for condonation of delay of 632 days in filing this instant appeal preferred under Section 54 of the Land Acquisition Act, 1894 against the award dated 23.09.2008 passed by the Additional District Judge, Sakti, District Janjgir-Champa in Misc. Civil Suit No. 11/2007, whereby the learned trial Court has awarded a compensation to the tune of Rs. 3,81,262/- per hectare to the respondent.

2. It is stated in the application that the copy of the impugned award was received in the office of the appellant on 28.05.2009 from the office of the Land Acquisition Officer, Hasdeo Project. Upon receiving the said copy of the award, a letter bearing No. 4154, was issued on 15.04.2010 to the Revenue Department of the State of Chhattisgarh for obtaining the permission with regard to filing of an appeal against the said award. After issuance of the said letter, the concerned Collector has written a letter on 29.04.2010 to the concerned

Secretary by enclosing the opinion of the Government Advocate with regard to filing of an appeal against the said award.

3. It is submitted further in the said application that the Law Department of the State Government has accorded its sanction for filing an appeal on 28.06.2010. Thereafter, the Officer-In-Charge was appointed by the Government on 30.06.2010, who in turn, has approached the office of Advocate General on 15.07.2010 for filing an appeal. The office of the Advocate General has directed the said Officer-In-Charge to bring the certified copy of the award on the same day so that an appeal could be filed. It is submitted further in the application that after obtaining the certified copy of the award impugned the necessary steps for preparation of appeal were taken and, accordingly, it was filed on 14.09.2010. The delay of 632 days, as occurred under the above facts and circumstances was under a bonafide mistake, therefore, deserves to be condoned in the interest of justice.

4. The aforesaid application was opposed by the respondent. It is stated that despite of inordinate delay of 632 days, the reasons have been assigned in a causal manner even without supporting any document in this regard. It is contested by denying the fact that the copy of the impugned award was received on 28.05.2009 as the same was passed in presence of both the parties. It is contested further that the copy of the impugned award was already received by the appellant No.2 on 24.12.2008 as evidenced by their note-sheet dated 27.02.2009 and that by suppressing and misrepresenting this fact the instant appeal has been filed. No sufficient and reasonable explanations have been assigned in the application for condonation of delay in filing the appeal, which even otherwise based on no legal grounds, therefore, the same deserves to be rejected.

5. I have heard learned counsel for the parties and perused the entire record carefully.

6. Undisputedly, the award impugned was passed on 23.09.2008 in presence of both the parties. Since the award was passed as such, therefore, the submission as made by the appellant that copy of award was received in their office on 28.05.2009 cannot be held to be acceptable. Besides, the letters dated 15.04.2010 and 29.04.2010 were issued to the Revenue Department of the Government seeking sanction for filing an appeal although the copy of the impugned award was very well available to him on 28.05.2009 as per their own submission. However, no explanation was assigned in this aspect as to why the aforesaid letters were issued after more than 10 months. Even otherwise, when copy of the impugned award was made available to the appellant on 28.05.2009, than why the application for obtaining the certified copy of the same was again made on 18.05.2010. Be that as it may, the certified copy was delivered to the appellant on 20.05.2010, as evidenced by the endorsement in the back side of the said impugned award, yet, the instant appeal was filed on 14.09.2010. No explanation whatsoever has been made by the appellant in this regard. The conduct of the appellant, thus, apparently shows their malafide intention and, therefore, from any imagination, it can not be held that the alleged delay of 632 days has occurred bonafidely. It is the settled principles of law that the party who seeks discretionary relief of the Court must approach with clean hands, which is completely lacking in the instant matter.

7. In the matter of **Balwant Singh v. Jagdish Singh** reported in **(2010) 8 SCC 685**, the Supreme Court has held at paragraphs 25 and 26 as under:-

“25. We may state that even if the term 'sufficient cause' has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal

construction normally is to introduce the concept of 'reasonableness' as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise (sic a lis). These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly.”

8. The Supreme Court in the matter of **Maniben Devraj Singh v. Municipal Corpn. of Brihan Mumbai** reported in **(2012) 5 SCC 157**, has observed at paragraph 24 as under:-

“24.If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.”

9. While reiterating and relying upon the aforesaid principles, the Supreme Court in the matter of **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and others** reported in **(2013) 12 SCC 649**, has held at paragraphs 21.9 (ix) and 21.10(x) as under:-

“21.9.(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to

be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10.(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.”

10. In view of the foregoing discussions and based upon the aforesaid principles, I do not find any sufficient and reasonable ground to condone the inordinate delay of 632 days in filing the instant appeal. The application is therefore, deserves to be and is hereby rejected. Consequently, the appeal is also dismissed. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge