

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 983 OF 2001
IN
FIRST APPEAL (ST.) NO. 19755 OF 1997

The State of Maharashtra .. Applicant/Petitioner
vs.
Shri. Sharad B. Sonavane .. Respondent

Mr. Amit A. Palkar, Asst. G.P for the appellant/applicant.

CORAM : M. S. SONAK, J.
DATE : 04 JANUARY 2017.

P.C. :-

1] This civil application seeks condonation of delay of 956 days in instituting an appeal against the award made in Land Acquisition Reference No. 32 of 1989 by the reference court at Pune.

2] In the application seeking condonation of delay, the following chronology has been set out at paragraph '2':

<u>Sr. No.</u>	<u>Date</u>	<u>Events</u>
1.	26/8/1994	The Judgement and orders was passed by reference Court.
2.	09/05/1995	Certified copy was applied for
3.	01/06/1995	Certified copy was ready for delivery.
4.	04/10/1995	The District Government Pleader forwarded his opinion to the Law and Judiciary Department.
5.	7/9/1996	The Law & Judiciary Department took a decision to file the present Appeal.

6.	7/9/1996	The said decision was received in office of the Govt. Pleader, High Court, Mumbai.
7.	22/7/1997	The Certified Copy and other documetns were received by the office of the Govt. Pleader, High Court, Mumbai.
8.	31/7/1997	This Appeal filed.

3] Incidentally, in paragraph 2, it is stated that the delay in instituting the appeal is of 249 days. However, in the prayer clause, it is correctly stated that the delay is of 956 days.

4] In paragraph 3 of the application, by adverting to the aforesaid chronology, it is stated as follows:

“As stated herein-above as a result of procedure involved at various stages the delay has been caused in filing the present Appeal.”

5] In paragraph 4, it is also stated that the State has taken a decision not to proceed with the appeals in respect of certain connected references, since the amounts involved therein were not substantial.

6] If the chronology of the events is perused, it is quite clear that the delay in this case, apart from being inordinate is unexplained. There is no explanation as to why it took nine months for merely applying for certified copy. The certified copy was delivered within one month from the date of the application by the office of the reference court. Thereafter, there was further delay of almost four months in merely forwarding the copy alongwith opinion to the Law

and Judiciary Department. The Law and Judiciary Department, thereafter took almost a year to decide that the appeal needs to be filed in this matter and communicated this decision to the office of the Government Pleader on 7 September 1996. The appeal was however, filed only on 31 July 1997, possibly on this spacious plea that other documents were not received by the office of the Government Pleader on 22 July 1997. All this hardly constitutes any good and sufficient cause in the matter of such inordinate delay of 956 days.

7] It is true that this court has to be liberal in the matters of condonation of delay. As contended by Mr. Amit Palkar, it is also true that this court has to consider the position of the State Government, which is to a great extent an impersonal agency and has to necessarily function through its officer. However, in the facts and circumstances of the present case, even if significant latitude is extended to the State, there is really no sufficient cause to explain delay of 956 days in instituting the appeal.

8] As noted earlier, there is unreasonable delay in even applying for certified copy. Thereafter, there is unreasonable delay on the part of the Law and Judiciary Department in taking a decision on the issue of institution of the appeal. Finally, there is unreasonable delay in actually instituting the appeal. It is true that day to day need not to be explained. However, even by extending maximum indulgence to the State, it cannot be said that several blocks or delay are in any manner explained in the present matter.

9] In *Pundlik Jalam Patil (Dead) By Lrs. Vs. Executive Engineer, Jalgaon, Medium Project and anr.*¹, the Hon'ble Supreme Court has held that pursuing stale claims and multiplicity of proceedings in no manner subserves public interest. Prompt and timely payment of compensation to the landlosers facilitating their rehabilitation/resettlement is equally an integral part of public policy. One should not forget the basic fact that what is acquired is not the land but the livelihood of the landlosers. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under section 5 of the Limitation Act. Dragging the landlosers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay on the ground of involvement of public revenue. This serves no public interest. Though, the State on its instrumentalities are the applicants seeking condonation of delay they may be entitled to certain amount of latitude but the law of limitation is same for citizen and for governmental authorities. It would be a different matter where the Government makes out a case where public interest was shown to have suffered owing to acts of fraud or collusion on the part of its officers or agents and where the officers were clearly at cross purposes with it. In a given case, if any, such facts are pleaded and proved they cannot be excluded from consideration. In a case with which we are concerned, no such facts have been either pleaded or proved.

1 (2008) 17 SCC 448

10] In ***Union of India and ors. vs. Visveswaraya Iron and Steel Ltd.***¹, the Hon'ble Supreme Court declined to entertain the special leave petition filed almost one year after the receipt of copy of the judgment. The explanation that delay was on account of the file having moved through various departments was not accepted.

11] In ***Special Land Acquisition Officer (SIP) and anr. Vs. Jose Prazeres DE Piedade Pinto r/o. Old Market and ors.***², the learned Single Judge of this Court has held that delay cannot be condoned in a matter relating to land acquisition case, merely on the ground that the matter involved public monies. On such basis, the Government cannot seek condonation of delay as a matter of right. It is necessary for the Government to furnish necessary and satisfactory explanation for such delay. In case the delay has occurred on account of either willful acts on the part of the concerned officer/s or for any other reason, the same has to be stated and some material produced on record in support thereof. Mere statements regarding the movement of the file from one office to the other office, from one table to the other table cannot be construed as satisfactory explanation for the delay in filing the appeal.

12] In ***Registrar of Companies Vs. Rajshree Sugar & Chemicals Ltd. and ors.***³, the Hon'ble Supreme court has held that though some latitude has to be shown to the Government in deciding the question of delay, that does not give a licence to the officers of the

1 1987 (supp) Supreme Court Cases 192

2 2006(4) Mh.L.J. 318

3 (2000) 6 SCC 133

Government to shirk their responsibility to act with reasonable expedition.

13] In **Basawaraj and anr. Vs. Special Land Acquisition Officer**¹, the Hon'ble Supreme Court at paragraphs 9 and 15 has observed thus:

“9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word “sufficient” is “adequate” or “enough”, inasmuch as may be necessary to answer the purpose intended. Therefore, the word “sufficient” embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, “sufficient cause” means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has “not acted diligently” or “remained inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee, Mata Din v. A. Narayanan, Parimal v. Veena and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai.)

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15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason

1 (2013) 14 SCC 81

which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature”.

14] In ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and ors.***¹, the Hon'ble Supreme Court has *inter alia* laid down the following guidelines for considering an application for condonation of delay:

“(i) ...
...
...

(xiv) *An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

(xv) *An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

(xvi)

(xvii) *The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.”*

1 (2013) 12 SCC 649

15] In *Postmaster General and ors vs. Living Media India Limited and anr.*¹, the Hon'ble Supreme Court declined to condone the delay or 427 days in filing special leave petition by observing thus:

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

16] In this case, the impugned award was made on 26 August 1994. On the grounds of pendency of this appeal, no compensation has been paid to the landlosers. It must be noted that when the State

1 (2012) 3 SCC 563

resorts to compulsory acquisition, in many cases, the livelihood of the landlosers also stands acquired. Therefore, it is imperative that the compensation is paid to the landlosers at the earliest. On account of such casual approach on the part of the State in instituting the appeals after considerable delay and thereafter, not even taking proper steps to effect service upon the respondents, the landlosers have been deprived of compensation since 1994.

17] In this case, even if some liberal approach is to be adopted, I find that there is no explanation or in any case, there is no sufficient cause shown for the delay of almost thirteen months in applying for certified copy of the impugned award. The over all delay in the present case is of 956 days. The impugned award was made in the year 1994. Considerable time has elapsed even in the matter of effecting service upon the respondents. Even if all these aspects are ignored, from the material on record, I am satisfied that no sufficient cause has been shown in the matter of condonation of delay.

18] Applying the aforesaid principles to the facts of the present case, there is no case made out to condone the delay of 956 days in instituting the appeal. Civil Application No. 983 of 2001 is therefore, dismissed. As a consequence, First Appeal (St.) No. 19755 of 1997 is also dismissed. Civil Applications, if any, do not survive and the same are also disposed of.

(M. S. SONAK, J.)