

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RFA No.2275 of 2016(O&M)

Date of decision: 07.02.2017

Ved Ram and others

... Appellants

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Adarsh Jain, Advocate for the appellants.
Ms. Safia Gupta, AAG, Haryana.

ARUN PALLI, J. (Oral)

CM-6812-CI-2016

This is an application seeking condonation of delay of 8812 days in filing the accompanying appeal.

Notice in the application was issued to the respondents, and the reply thereto has been filed.

Briefly, all what has been set out in the application to justify the delay that has occurred in filing the appeal is; the claim of the applicants under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') was decided by the reference court, vide award dated 14.01.1992. The matter was being pursued by Late Narain Singh s/o Sh. Sangat, who also happened to be one of the claimants. The applicants were under a bona fide belief that post award dated 14.01.1992, Sh. Narain Singh had engaged a counsel and filed an appeal before this court for further enhancement. Unfortunately, Sh. Narain Singh expired on 28.07.1994. And, it was only on 18.05.2016, the applicant/appellant No.1 acquired knowledge as regards the

enhancement awarded by this court from the other residents of the village, whose land was also acquired in the same acquisition. The applicants approached their counsel in the civil court at Faridabad to ascertain the procedure to find out if any appeal was actually filed against the award rendered by the reference court. However, on inquiries made in this regard, it transpired that in fact no such appeal was ever filed. The applicants collected the requisite documents/record, and the appeal was eventually filed in May, 2016. Thus, the delay.

I have heard learned counsel for the parties and perused the record. Ex facie, the explanation rendered by the applicants lacks bonafides.

Concededly, the reference court had made an award as back as on 14.01.1992. Late Narain Singh, predecessor-in-interest of appellant No.2, who purport to have been pursuing the matter, died on 28.07.1994. Meaning thereby, even post award of the reference court, he was alive for a period of over 2½ years. Significantly, this is not the case of the applicants that neither they nor late Narain Singh had any knowledge of the decision of the reference court. In fact, knowledge of the award dated 14.01.1992 is conceded. If despite that he or the applicants did not prefer any appeal, it was purely by choice and on their own volition. And, even if it is assumed that he alone was pursuing the matter on behalf of all the claimants-landowners, then after he died on 28.07.1994, in the natural course of events the applicants would have lost no time to ascertain the status of the appeal, which they thought was filed by Narain Singh. Instead, they choose to remain quiet for a period of 22 years even after the death of Narain Singh.

Even the assertions; that it was only on 18.05.2016, the applicants acquired knowledge of the enhancement awarded by this court

from a co-landowner, is apparently concocted. This court had enhanced the compensation, in the appeals arising out of the same acquisition, on 27.07.2005. Thus, it is wholly incredible that a co-landowner remembered to share that information with the applicants only 11 years later. And, never before. Not just that, concededly the applicants had obtained a certified copy of the short order dated 14.01.1992, passed by the reference court on 03.02.2012, which clearly show that they had a conclusive knowledge of the award dated 14.01.1992, at least in February, 2012. Thus, the institution of the accompanying appeal, after over a period of 24 years, is not only an afterthought but is completely speculative in nature.

No doubt, the Hon'ble Supreme Court in **Imrat Lal and others v. Land Acquisition Collector and others**, 2015(2) RCR (Civil) 437, condoned the delay in filing the RFA before this court that was barred by 1110 days, but deprived the claimants of interest on the enhanced compensation for the period of delay. What needs to be noticed is that in the said case claimants had filed an appeal within three years of the decision of this court awarding enhancement in the connected matters. Whereas, the present appeal has been filed after 11 years of the decision of this court on 27.07.2005.

The Hon'ble Supreme Court in **Mewa Ram (Deceased) by his LRs and others vs State of Haryana**, (1986) 4 SCC 151 did not accept the prayer for condonation of delay in filing the appeal because in another case enhancement of compensation for the adjacent land had been made.

In State of **Nagaland vs Lipokao and others**, (2005) 3 SCC 752, the Hon'ble Supreme Court opined that proof of sufficient cause is a

condition precedent for exercise of discretion by the Court in condoning the delay.

In **D. Gopinathan Pillai vs State of Kerala and another**, (2007)

2 SCC 322, the Hon'ble Supreme Court was of the view that when mandatory provision is not complied and the delay is not properly, satisfactorily and convincingly explained, the Court cannot condone the delay on sympathetic ground only.

The issue regarding condonation of delay has been considered by the Hon'ble Supreme Court in Civil Appeal No. 6974 of 2013-**Basawaraj and another vs The Special Land Acquisition Officer**, decided on 22.8.2013, wherein it has been opined as under:-

“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 which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide 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.”

Needless to assert, that it is always the endeavour, and rather, the earnest desire of the Court to decide the cause of every litigant, on merits, provided, he approach the Court in good faith, and does not lack bona fides. Such is not the position in the matter in hand. Thus, there is hardly any cause, least a sufficient cause, to condone the gross, inordinate and unexplained delay of above 24 years i.e. 8812 days, in filing the accompanying appeal. Therefore, the Court is choiceless but to dismiss this application.

The application is accordingly dismissed.

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For, the application seeking condonation of delay in filing the appeal has been dismissed, the appeal, as a necessary consequence, is dismissed being barred by time.

February 7, 2017
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:
Whether Reportable:

YES/NO
YES/NO