

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

LPA No.139 of 2017 (O&M)

Date of Decision : 16.05.2017

Parbhagia Van Adhikari, Gohana Road, Sonapat

....Appellant

Versus

Kamal Singh and another

...Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN**

**Present : Mr. Gagandeep S.Wasu, Addl.AG, Haryana
for the appellant.**

.....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 29.10.2015 but filed after an inordinate delay of 420 days. The reasons for delay have been given in the application under Section 5 of the Limitation Act which is supported by an affidavit and we consider it appropriate to extract paras 3 to 5 of the said application herebelow :-

“3. That after decision of the writ petition dated 29.10.2015, thereafter, office of the deponent has received certified copy of Judgment dated 29.10.2015 in the office of Divisional Forest Officer, Sonapat. Thereafter, deponent received a letter from the office of Advocate General, Haryana in which he send their comments in this case and endst. a copy to Legal Remembrancer

for issuance necessary instructions in this case.

Thereafter, Legal Remembrancer Haryana has issued the necessary instructions for filing LPA.

4. Advocate General, Haryana has written a letter No.25784 dated 20.05.2016 to the office of the DFO, Sonapat for sending the complete record of the case for filing the LPA and in this process delay of 420 days has occurred which is not intentional but due to bonafide reasons stated above. In the above said process some delay in filing the present appeal occurred due to procedural routine.

5. That due to the above narrated facts and circumstances the above titled LPA could not be filed in time and there is delay of 420 days in filing the same which occurred in the coverage of official process. The above said delay was not intentional but occurred due to unavoidable circumstances as explained above.”

On 02.02.2017, when this Court being dissatisfied with the aforesaid explanation intended not to interfere, the appellants made a prayer to file a better affidavit indicating the reasons for delay in detail, which has since been done by way of an additional affidavit dated 20.03.2017 which is being extracted

herebelow :-

“2. That the certified copy of the judgment dated 29.10.2015 is received in the office of Divisional Forest Officer, Sonapat. Divisional Forest Officer, Sonapat has written to Legal Remembrancer, Haryana Chandigarh for seeking his opinion for filing LPA in this case vide his office letter No.3313 dated 29.01.2016 and Endst. No.3314-17 dated 29.01.2016 to Advocate General, Haryana. The Legal Remembrancer, Haryana Chandigarh has written to AG, Haryana vide his letter No.27388/Co.13(369)-2012 dated 05.05.2016 that it is a fit case for filing LPA and Endst.No.27389/Co.13(369)-2012 dated 05.05.2016 to this office Law Officer in the office of Ld.Advocate General, Haryana prepared the grounds of LPA on 18.05.2016. Then Advocate General, Haryana has written vide his Memo No.25784 dated 20.05.2016 to Divisional Forest Officer(T), Sonapat that to attend his office on 23.05.2016 alongwith draft affidavit for delay and stay application for vetting which was received in the office of undersigned on 23.05.2016. There were summer vacation the Hon'ble High Court for the month of June, 2016. The dealing Assistant of O/o Divisional Forest Officer, Sonapat

contacted in the O/o Advocate General, Haryana on dated 30.06.2016 for getting grounds of appeal and the same was supplied. After this the dealing assistant of O/o Divisional Forest Officer, Sonapat contacted in the O/o Advocate General, Haryana for filing LPA and office of Ld. Advocate General Haryana desired to submit the documents i.e. certified copy of Hon'ble Punjab & Haryana, High Court, Chandigarh's Order, application for delay with affidavit and application for stay with affidavit etc. Then draft affidavit for delay and stay with application sent to the office of Ld. Advocate General, Haryana, for vetting on 21.09.2016, which was got vetted from the office of Advocate General, Haryana on 21.09.2016 itself. Accordingly, as per requisition of LR, Haryana Chandigarh, the above said documents were submitted for filing LPA with four sets to Learned Advocate General, Haryana vide this office letter No.1490 of 03.10.2016 but some objections were again raised by O/o Ld. Advocate General, Haryana. After this the dealing assistant of O/o Divisional Forest Officer, Sonapat again contacted in the O/o of Ld. Advocate General, Haryana on 18.11.2016 for filing LPA in this case but again on this occasion LPA has been returned

to the concerned assistant of this office by raising certain objections by the office of Ld. Advocate General, Haryana. After this the dealing assistant of this office contacted in the O/o Ld. AG, Haryana on 28.11.2016 again submitted the paper book and LPA for filing. Then after this process the paper book of LPA submitted in the O/o Ld. Advocate General, Haryana on 13.12.2016. Thereafter office of Ld. A.G. filed the LPA on 25.1.2017. The delay has been caused due to the various administrative reasons and time taken by the various authorities in dealing with the file. Thus the delay of 420 days in filing the accompanying appeal is neither intentional nor deliberate on the part of the applicant/appellant, but due to various procedural matter.

3. That the delay in filing the appeal is not intentional but for administrative exigencies and due to lengthy procedure involved.”

The aforesaid would reveal that after the judgment was rendered on 29.10.2015, the office of Divisional Forest Officer, Sonapat received the certified copy of the impugned judgment and wrote a letter to Legal Remembrancer, Haryana seeking his opinion for filing LPA on 29.01.2016 with an endorsement to

Advocate General, Haryana. The Legal Remembrancer, Haryana

vide letter dated 05.05.2016 informed the Advocate General, Haryana that it was a fit case for filing LPA. Thereafter the Advocate General, Haryana on 20.5.2016 desired the Divisional Forest Officer, Sonapat to attend his office on 23.05.2016 along with draft affidavit of delay and stay application for vetting thereof. Thereafter the affidavit for delay and stay application were sent to the office of Advocate General, Haryana for vetting on 21.09.2016 and thereafter the LPA was filed on 25.01.2017.

We are at pains to notice that when this court after going through the explanation given in the earlier affidavit filed by the appellant in support of the application for condonation of inordinate delay of 420 days declined to interfere, the appellant sought time to file a better affidavit. In the additional affidavit the appellant has not mentioned as to when they applied for the certified copy of the impugned judgment and when received the same. The lackadaisical attitude of the appellant in dealing with the instant matter shows a sorry state of affairs. At every stage the authorities took months together in taking the decision. All this goes to show complete apathy to the legal process as the file has shuffled from one to another for obtaining legal opinion and preparing the draft and vetting thereof at a snail's pace.

We cannot shut our eyes to such callousness and treat the State or its functionaries differently than a common litigant while dealing with matters of limitation to grant indulgence by

overlooking such procedural delays and we would not be unjustified to expect some alertness at the hands of a litigant who wishes to approach this Court in no matter what proceedings.

The Hon'ble Supreme Court in *Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr.*

2012(2)S.C.T.269 has observed as under :

“13. 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 Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. 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.”

Keeping in view the aforesaid, we are of the view that the explanation for delay offered by the appellant is not worth acceptance.

Appeal dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

16.05.2017
dss

(SHEKHER DHAWAN)
JUDGE

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