

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 419 of 2017

Shankarlal Banjare S/o Puranik Ram, Aged About 48 Years Caste Satnami, R/o Village Mengha, Police Station Magarlod, Tahsil Magarlod, District Dhamtari, Chhattisgarh. Defendant No. 1, Chhattisgarh

---- Petitioner

Versus

1. Rameshari Bai W/o Late Manihar @ Maniram, Aged About 48 Years Caste Nishad, R/o Village Mengha, Police Station Magarlod, Tahsil Magarlod, District Dhamtari, Chhattisgarh. Plaintiff, Chhattisgarh
2. Junior Engineer, Chhattisgarh State Electricity Divisional Office Raipur Road, Dhamtari, District Dhamtari, Chhattisgarh. Defendant, District : Dhamtari, Chhattisgarh
3. The Executive Engineer Rural, Sudhar And Sanchar, Chhattisgarh State Electricity Divisional Office Raipur Road, Dhamtari, District Dhamtari, Chhattisgarh. Defendant, District : Raipur, Chhattisgarh
4. State Of Chhattisgarh, Through The Collector, District Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Respondents

For Petitioner : Mr. D. N. Prajapati, Advocate.

For Respondent No. 2 & 3 : Mr. Raja Sharma, Advocate.

For State : Mr. Majid Ali, Dy. GA

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

16/04/2018

1. Heard on I.A. No. 1, application for condonation of delay in filing appeal.
2. Learned counsel for the appellant argued that the appellant is living in a remote scheduled area of the State. He is also suffering from certain amount of disability and is a poor person. As the appellant was facing a criminal trial for about six years, he has to incur huge expenditure and due

to poverty, he could not arrange necessary expenses for filing appeal before the Court. It is only when executing Court proceeded to execute the impugned judgment and decree, somehow the appellant arranged funds by taking loan from relatives. Therefore, it is argued, there is sufficient cause for condonation of delay of 2323 days in filing appeal.

In support of his submission, learned counsel for the appellant relied upon the judgment of the Supreme Court in the case of K. Subbarayudu and Others Vs. The Special Deputy Collector (Land Acquisition), 2017 SAR (Civil) 1003 Supreme Court.

3. On the other hand, learned counsel for the respondent would submit that looking to long delay of seven years in filing appeal, the appellant was required to properly explain the delay but the appellant has come out with vague explanations. The appellant has only sought compassion without there being sufficient cause shown by him for condonation of such a long delay in filing appeal. Learned counsel for respondent No. 1 relies upon the decision of the Supreme Court in the case of G. Ramegowda, Major Etc. Vs. The Special land acquisition Officer, Bangalore & Basavalingappa, AIR 1988 SC 897.

4. There is no dispute that the present appeal is barred by 2323 days and the impugned judgment and decree was passed on 25-11-2010 whereas, present appeal has been filed by the appellant on 06-09-2017 i.e. after seven years. The explanation for such a long delay is that the appellant was facing some criminal case and that he is poor and also disabled. The appellant has not specifically stated when the criminal case was initiated and when it came to an end. The disability certificate also does not show that the appellant suffers from such a disability which prevented him from filing appeal for almost seven years. The causes which have been shown do not sufficiently explain such a long delay of seven years. A party cannot be allowed to assail the judgment and decree without sufficient cause shown after seven years.

5. Counsel for both the parties have relied upon the decisions before this Court in support of their respective arguments. Though, there is no quarrel with the legal proposition that the Court should adopt the justice oriented approach, term 'sufficient cause' is required to be construed liberally so as to advance substantially justice, at the same time, a balance is to be struck and a party cannot be allowed to file appeal whenever he chooses to do so nor can long delay of years together, in the present case seven years, can be condoned only by applying liberal approach, when the

explanation for delay itself is vague and not specific. If there is negligence, deliberate or Callous negligent or lack of bonafides on the part of the party, there is no reason why the opposite side should be exposed to time barred appeal. The decision relied upon by learned counsel for the appellant was a case of claim of compensation in view of acquisition of land and the Court found that the compensation was too meagre. In those peculiar circumstances, it was held that if delay is not condoned, interest of justice would be defeated. In the present case, it has to be noted that appellant remained negligent even during trial and he was proceeded ex-parte. Moreover, in the criminal case the appellant has been held guilty. The compensation has been awarded on account of death of one Maniram who was labour. Plaintiff is the poor widow of Manihar who has been awarded compensation. The appellant has been saddled with only half of the liability to the extent of Rs. 1,35,500/-. Therefore, taking into consideration the circumstances of the case, long delay, vague explanation, no sufficient causes made out to condone seven years delay in filing appeal. Interest of justice demands that the matter should be allowed to stay at rest when a poor widow of the deceased Manihar has been awarded compensation of Rs. 2,71,000 out of which appellant has to pay only Rs. 1,35,500.

6. Accordingly, the application for condonation of delay in filing appeal is rejected and consequentially the appeal is also dismissed as barred by limitation.

Sd/-

(Manindra Mohan Shrivastava)

Judge