

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

RFA No. 3518 of 2016 (O & M)

Date of decision: 30.05.2018

Harnam Singh and others

....Appellant(s)

Versus

UOI and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Vishal Aggarwal, Advocate,
for the applicant-appellants.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 9653-CI of 2016 has been filed for condonation of delay of 6225 days in filing the appeal against the Reference Court award dated 16.10.1998 at Gurdaspur by 28 appellants out of the original 67 claimants before the Reference Court for the *shamilat land*. Even out of the 28 appellants who have now filed, 7 original claimants have died and are represented by their legal representatives.

The ground for sufficient cause is that many of the claimants-appellants have died who were pursuing the matter and the appeals could not be filed at all. On account of similarly situated persons having got the compensation, the appellants finally got together and are filing the appeal. Being illiterate and rustic villagers is one of the reasons mentioned in the application which is supported by affidavit of Balwan Singh, one of the appellants herein to condone the delay of 6225 days. The affidavit has been signed in English by Balwan Singh and, therefore, the argument as such which is now being sought to be raised that he is a illiterate and rustic person does not cut much ice with this Court especially when the claim is

regarding enhancement of land which was *shamilat* in nature.

The law of limitation has been held to operate harshly but in land acquisition cases, it has been held that interest can be withheld as such in ***Imrat Lal and others vs. Land Acquisition Collector and others, 2014 (14) SCC 133*** and ***Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2014 (14) SCC 127***. A perusal of the said judgment in ***K. Subbarayudu and others vs. Special Deputy Collector (Land Acquisition), 2017 (4) RCR (Civil) 428*** also would go on to show that a sufficient cause as such was made out in as much as the file had been entrusted to the co-villager, who was well conversant with the Court proceedings and the said co-villager had also taken steps to engage an Advocate but was a migrant and had gone abroad to eke out his livelihood. It is in such circumstances the Apex Court had condoned the delay and not granted the benefit of interest.

In the present case, as noticed, sufficient cause itself has not been mentioned as to what led the large number of claimants not to approach this Court at a relevant point of time. In ***Pundlik Jalam Patil (D) by LRs Vs. Ex. Eng. Jalgaon Medium Project and Ors, 2009(1) RCR 128***, it has been held that the law is for the vigilant and not for those who sleep over their rights. The relevant portion reads thus:-

“14.....The applicant having set the machinery in motion cannot abandon it to resume it after number of years because the authority with whom it had entered into correspondence did not heed to its request to file appeals. The question is : Can the respondent/applicant in this case take advantage of its negligence, after lapse of number of years, of the decision of Government? It knew the exact grounds on

which appeals could have been preferred. The law will presume that it knew of its right to file appeal against the award. Everybody is presumed to know law. It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.'

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18. Shri Mohta, learned senior counsel relying on the decision of this court in N. Balakrishnan vs. M. Krishnamurthy [(1998) 7 SCC 123] submitted that length of delay is no matter, acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as part of dilatory tactics the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a life span for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It is observed: It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of

limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

Mere pendency of similarly situated appeals of other land owners would not also be a ground to condone the delay of almost 2 decades of an award passed in 1998. In ***Mewa Ram (Deceased) by his LRs and Ors Vs. State of Haryana, 1986 (3) SCR 660***, the Apex Court declined to grant the benefit of condonation of delay of more than 3 years. Relevant portion of the judgment reads as under: -

“The judgment of the High Court not having been appealed from has admittedly become final. Evidently, the petitioners felt satisfied with the enhanced amount of compensation as awarded by the High Court @ Rs.12.25 per square yard because they did not apply for grant of special leave under Art. 136 of the Constitution for more than three years. Merely because this Court in the two cases of Paltu Singh and Nand Kishore enhanced the rate of compensation to Rs.17.50 per square yard, could not furnish a ground for condonation of delay under section 5 of the Limitation Act. 5.

5. Furthermore, there is no provision in the Act apart from section 28A for reopening of an award which has become final and conclusive. No doubt section 28A now provides for the redetermination of the amount of compensation provided the conditions laid down therein are fulfilled. For such redetermination, the forum is the Collector and the application has to be made before him within thirty days from the date of the award, and the right is restricted to persons who had

not applied for reference under section 18 of the Act. If these conditions were satisfied, the petitioners could have availed of the remedy provided under section 28A of the Act. In that event, section 25 would ensure to their benefit. Any other view would lead to disastrous consequences not intended by the Legislature.”

Similarly in ***Brijesh Kumar and others vs. State of Haryana and others, AIR 2014 SC 1612*** also, 3 years' delay was there and it was sought to be condoned on the ground that the connected matters are pending and the applications were dismissed.

In such circumstances, this Court is of the opinion that the inordinate delay as such is not liable to be condoned. More so, when most of the original land owners themselves chose not to approach this Court and have died. The next generation have filed applications for impleadment as legal representatives and have now approached this Court. The litigation which had become hopelessly time barred cannot be allowed to be continued further as it would be a travesty of the law of limitation.

Accordingly, finding no merit in the application, the same is dismissed.

Resultantly, the main appeal and the other connected applications also do not survive and are also dismissed.

30.05.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

