

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

**RFA No.970 of 2018 (O&M)
Decided on : 05.04.2018**

Moji (since deceased) through his L.Rs.

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Balraj Singh Rathee, Advocate
for the appellants.

G.S. Sandhawalia, J. (Oral)

This is an application for condonation of delay of 5942 days in filing the regular first appeal and the Award under challenge is dated 10.08.2001 of the Addl. District Judge, Sonapat. The original applicant-Moji who was the petitioner-claimant before the Reference Court himself died on 18.05.2010 and an application for impleading his legal heirs has also been filed. The landowner himself chose not to litigate and further seek enhancement during his lifetime, for a period of 9 years and the appeal has been filed 8 years after his death. The delay is as such colossal and it is settled principle that the law of limitation is not to be thrown out the window and parties can be free to wake up at any point of time and approach the Court. The Apex Court in '**Pundlik Jalam Patil (D) by LR.s. vs. Exe. Eng. Jalgaon Medium Project and another'**, 2009 (1) PLR 128 held as under:-

“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.”

The Apex Court in **Mewa Ram (dead) by his LRs Vs. State of Haryana 1986 (3) SCR 660**, declined to grant the benefit of condonation of delay of more than 3 years. Relevant portion of the judgment reads as under:

“The petitioners had all applied for reference under section 18 of the Act and the civil court by adopting a different basis for computation, namely treating the land to be potential building site, substantially enhanced the amount of compensation. On appeal there was further enhancement by the High Court. The petitioners have withdrawn large sums of money at each stage. For instance, the petitioner Mewa Ram withdrew on February 6, 1976 consequent upon the award of the Land Acquisition Collector Rs.1,19,000, an additional sum of Rs.28,938.20p. On March 23, 1978 after the judgment of the learned Additional District Judge, and Rs.2,75, 105.42p. after the judgment of the High Court between December 11, 1981 and February 13, 1982. 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. 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.”

In such circumstances, this Court is of the opinion that no ground is made out for condoning the delay of more than 17 years. Accordingly, the application for condonation of delay and other miscellaneous applications alongwith main appeal are dismissed.

APRIL 05, 2018
Naveen/sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No