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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment: 3rd October, 2018*

+ LPA. 557/2018

RAJIV KUMAR RAI

..... Appellant

Through

Mr. Anuj Aggarwal, Mr. Deepak
Sinha and Mr. Ashutosh Dixit,
Advocates

versus

M/S INDIAN AGRICULTURE RESEARCH INSTITUTE (IARI) &
ANR. Respondents

Through

Mr. Gagan Mathur and Mr. Varun
Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S. SISTANI, J. (ORAL)

CM.APPL40601/2018(Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPLs 40600/2018 (delay in filing) and 40602/2018 (delay in re-filing) & LPA. 557/2018

3. The present appeal filed by the appellant is directed against the order passed by the learned Single Judge dated 10.10.2013, by which the writ petition has been allowed in part and a compensation awarded to the tune of Rs.20,000/- has been increased to Rs.40,000/-. Along with the appeal, an application (CM.APPL 40600/2018) has been filed seeking condonation of 1572 days delay and another application (CM.APPL 40602/2018) has been filed seeking condonation of 180 days in re-filing the present appeal.

4. The present appeal is opposed by the counsel for the respondents on the ground that the appeal is blatantly barred by limitation. The learned counsel for the appellant has, however, justified the delay on the ground that the appellant was suffering from financial hardship and he could not approach the Court to challenge the order of the learned Single Judge. It has also been averred in the application that the present counsel was approached in the first week of January, 2017, who agreed to prefer the present appeal with negligible fees.
5. We have heard the learned counsel for the parties. The application seeking condonation of delay reads as under:
 - “2. That due to financial hardship the appellant could not approach this Hon’ble Court within stipulated time in order to challenge the impugned order passed by the Ld. Single Judge of this Hon’ble Court.
 3. That the appellant could approach the present counsel in the first week of January, 2017 who agreed to prefer the instant LPA with negligible fees.
 4. That no prejudice would be caused if the present application is allowed thereby this Hon’ble Court grants condonation of delay of 1572 days in preferring the present LPA. However, in the alternative the appellant shall suffer irreparable loss and injury.
 5. That the appellant has a good prima facie case and balance of convenience is also in his favour.

PRAYER

It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to:

- (a) Condone 1572 days of delay in filing the accompanying LPA;
- (b) Pass any other order that is deemed fit and proper under the facts and circumstances of the case.”

6. The grounds raised in this application seeking condonation of delay is financial hardship and, in fact, this is the only ground taken by the appellant. Reading of the application would show that even after the appellant had approached the present counsel in the first week of January, 2017, the appeal was only filed in the month of February, 2018 and there is also delay in re-filing the present appeal.
7. The Supreme Court of India has repeatedly held that the expression “sufficient cause” in Section 5 of the Limitation Act should be given a liberal interpretation to advance substantial justice. It has also been repeatedly held that length of delay is not to be considered provided the explanation is genuine and the delay was caused for sufficient reasons.
8. In the case of ***Brijesh Kumar & Ors. v. State of Haryana & Ors.***, reported at AIR 2014 SC 1612, the Apex Court has held as under:

“11. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.”
9. In ***Basawaraj and Anr vs. Special Land Acquisition Officer***, reported at (2013) 14 SCC 81, the Supreme Court in paras 9 to 15 held that while dealing with an application seeking condonation of delay the court must ensure that there is a sufficient cause, while condoning the delay:-

“9. Sufficient cause is the cause for which Defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee and Ors., AIR 1964 SC 1336; Lala Matadin v. A. Narayanan, AIR 1970 SC 1953; Parimal v. Veena @ Bharti, AIR 2011 SC 1150; and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai, AIR 2012 SC 1629.)

10. In Arjun Singh v. Mohindra Kumar MANU/SC/0013/1963 : AIR 1964 SC 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause

has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: Madanlal v. Shyamlal, AIR 2002 SC 100; and Ram Nath Sao @ Ram Nath Sahu and Ors. v. Gobardhan Sao and Ors., AIR 2002 SC 1201.)

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 24, p. 181:

"605. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a Defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence."

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches. (See: Popat and Kotecha Property

v. State Bank of India Staff Assn., (2005) 7 SCC 510; Rajendar Singh and Ors. v. Santa Singh and Ors., AIR 1973 SC 2537; and Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448).

14. In P. Ramachandra Rao v. State of Karnataka, AIR 2002 SC 1856, this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in A.R. Antulay v. R.S. Nayak, AIR 1992 SC 1701

15. 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.

10. Applying the settled law to the facts of the present case, we find that the appellant has failed to either plead or establish sufficient cause for the condonation of delay. The only ground raised by the appellant for condonation of delay is that due to financial hardship, he could not approach the Court within the stipulated time to challenge the impugned order passed by the learned Single Judge of this Court. There is no explanation rendered in the application as to how at this

stage the position of the appellant is any different than earlier. This, in our view, is not a reason good enough to condone the delay. The present application does not disclose justifiable and sufficient grounds for condoning the delay of 1572 days in filing the present appeal. Accordingly, we find no grounds to entertain the applications.

11. The applications are dismissed.

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12. Since the application seeking condonation of delay has been dismissed, consequently the appeal is also dismissed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

OCTOBER 03, 2018

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