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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LA.APP. 387/2015 & CM No.20619/2015 (for condonation of 1610 days delay in filing the appeal).
RAJ PAL

.... Appellant

Through: Mr. Prashant Shukla, Mrs. Anushree Mishra and Mr. Digant D. Deo, Advs.

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Sanjay Kumar Pathak, Mr. Sunil Kumar Jha and Mr. Shashikant Maurya, Advs. for UOI.
Mr. Shubhendu Bhattarcharya and Mr. Kunal Sharma, Advs. for DDA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **11.09.2018**

1. This appeal under Section 54 of the Land Acquisition Act, 1894 impugns the judgment and decree [dated 18th January, 2011 in LAC No.285A/09 (Unique ID No.02404C0232652009) of the Court of the Additional District Judge, Rohini] on a reference under Section 18 of the Act.

2. The appeal is accompanied with an application for condonation of 1610 days delay in filing thereof.

3. The appeal and the application came up first before this Court on 22nd September, 2015 when time of four weeks sought to make up deficiency in court fees was granted. Vide order dated 5th November, 2015, notice of the appeal and the application for condonation of delay was issued. The counsel for the respondent no.1 Union of India (UOI) and the counsel for the

respondent no.2 Delhi Development Authority (DDA) have been appearing.

4. Vide order dated 6th September, 2016, reference to a Larger Bench was made on the aspect of condonation of delay. The Larger Bench has since vide judgment dated 13th April, 2018 reported as ***Pratap Singh Vs. UOI*** (2018) 249 DLT 670 answered the reference and whereafter the application for condonation of delay is listed for consideration in terms of the answer in the reference to the Larger Bench.

5. The counsel for the appellant and the counsel for the respondent no.1 UOI have been heard.

6. The Land Acquisition Collector determined the market price of acquired land, at Rs.15,70,000/- per acre for land falling in block-A, at Rs.14,00,000/- per acre for land falling in block-B and at Rs.12,30,000/- per acre for land falling in block-C. The appellant being dissatisfied therewith, sought reference.

7. The Reference Court, in the impugned judgment, has reasoned/held/observed (i) that the onus was on the appellant to prove that he was entitled for enhancement in compensation; (ii) however the appellant had failed to appear despite repeated opportunities and had thus failed to prove his case; and, (iii) the appellant was thus not entitled to any enhancement in compensation.

8. The appellant, in the memorandum of appeal, has pleaded (i) that in October, 2013, when the appellant enquired from other villagers who got enhanced compensation, they informed the appellant that his case should have been decided along with that of other villagers who had also sought reference along with the appellant; (ii) that the appellant then contacted his

counsel but the counsel did not give any satisfactory answer; (iii) the appellant appointed a new counsel who enquired about the status of the case from the Court file and found that the case had already been decided on merits, without the appellant having led any evidence and thus no enhancement in compensation had been granted to the appellant; (iv) that on 28th November, 2013, the appellant filed a complaint against his previous counsel with the Rohini Court Bar Association for negligence; (v) the appellant, on 2nd December, 2013, made an application to the Reference Court for recall of the order dated 21st September, 2010 closing the evidence of the appellant as well as for recall of the judgment dated 18th January, 2011 and for decision of the reference afresh; (vi) that it was the plea of the appellant in the aforesaid application that the counsel engaged by the appellant was responsible for not providing the evidence even after ample opportunities were granted by the Reference Court and the said counsel did not even inform the appellant and that the appellant was a layman and should not suffer; (vii) that the Reference Court, on 20th July, 2015 informed the counsel for the appellant that the application was not maintainable; and, (viii) the appellant thereafter withdrew the application and has filed this appeal.

9. The reason given, in the application for condonation of delay is the same as what is stated in the memorandum of appeal aforesaid.

10. This appeal was filed in this Court first on 15th September, 2015.

11. The Larger Bench aforesaid, on the aspect of condonation of delay in land acquisition matters, has held (i) that limitation for appeals under Section 54 of the Land Acquisition Act is governed by Article 116 of the

Schedule to the Limitation Act; (ii) that the expression “sufficient cause” has to be meaningfully interpreted to sub-serve the purpose of justice and on the basis of the principles laid down in *Collector, Land Acquisition, Anantnag Vs. Katiji*, (1987) 2 SCC 107 and *Esha Bhattacharjee Vs. Managing Committee of Ranghunathpur Nafar Academy* (2013) 12 SCC 649; (iii) however, whether the discretion is to be exercised and delay should be condoned in a particular case would be situation and case specific; (iv) the condonation of delay is not a vested right to be granted on mere asking; (v) the social and economic condition of the appellant including his educational background and other limitations are the most important and determinative factors to be taken into consideration; (vi) indulgence need not be bestowed to the negligent and fence sitters, who had economic resources and were well versed and could have enforced right to appeal but for multifarious reasons were satisfied and did not pursue and enforce their right to appeal; (vii) enhanced or higher compensation awarded in other cases may be a relevant factor but would not be the sole or even dominant consideration; (viii) social and economic condition of the appellant, when the delay is substantial and long, would be the primary and dominant consideration; and, (ix) principle of equality may also come into play and would be a relevant factor.

12. Though the appellant was a party to the reference aforesaid which was answered on 13th April, 2018, but neither in the memorandum of appeal nor in the application for condonation of delay any such particulars considering which the discretion is to be exercised have been pleaded. It is vaguely stated that the appellant is a layperson, without disclosing education/qualification, vocation or other circumstances concerning the

appellant.

13. As far as the blame on the advocate is concerned, the appellant has nowhere pleaded even the name of the advocate who was engaged. There is no plea that the appellant, after engaging the advocate, took any steps or contacted the advocate to pursue the reference. On the contrary, from the averments it appears that the appellant, after engaging the advocate, did not take any steps. There is no averment that the fee arranged to be paid to the advocate was paid.

14. In the aforesaid scenario, the appellant cannot merely blame his advocate who is the agent of the appellant and cause prejudice to the opposite party.

15. It is significant that though the appellant claims to have come to know from the villagers, of enhancement given to others, as far back as in October, 2013, still did not pursue the correct remedies and pursued an application before the Reference Court which was misconceived in law. If the appellant engages an advocate who does not know the law, again the appellant is to blame therefor. Not only so, the misconceived application was pursued for about two years.

16. Not only so, the appellant did not even invoke the remedy under Section 28A and allowed the time therefor also to lapse.

17. The question which arises for consideration is, whether we, in the capital city of the country, should continue to be governed by principles of law for condonation of delay, which were evolved nearly a century ago, in the days of illiteracy, where an agriculturist could be called a layman. Today, large number of earlier agriculturists are in alternate employment,

educated, own properties fighting about their other rights and cannot be heard to cover their own negligence by blaming their advocate. As aforesaid, the choice of advocate is also of the appellant and if an advocate who is unable to pursue the proceedings in accordance with law, is engaged, the appellant himself is to blame therefor and cannot take any benefit thereof.

18. No case for condonation of delay, in such a gross case, is made out. The application for condonation of delay and consequently the appeal are dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 11, 2018
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