

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

RFA No.1014 of 2019 (O&M)

Islam and another

... Appellants

Versus

State of Haryana and others

... Respondents

(2)

RFA No.1015 of 2019 (O&M)

Hanif and another

... Appellants

Versus

State of Haryana and others

... Respondents

(3)

RFA No.1016 of 2019 (O&M)

Hasan Mohd. (now deceased) through his L.Rs. and others

... Appellants

Versus

State of Haryana and others

... Respondents

Decided on : 14.03.2019

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

Present : Mr. Ashish Gupta, Advocate
for the appellants.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of three appeals i.e.
RFA Nos.1014 to 1016 of 2019 filed under Section 54 of the Land
Acquisition Act, 1894 (for short 'the Act') against the Award dated

01.05.2010 passed by the Reference Court, Mewat at Nuh, whereby the reference petitions were declined and the amount of ₹12,50,000/- per acre which was assessed by the Land Acquisition Collector (for short 'the LAC') for village Rewasan for the notification dated 29.09.2005 under Section 4 of the Act was upheld.

Alongwith the present appeals applications for condonation of delay of 3136 days in filing the appeals have been filed for treating the appeals as urgent in view of the judgment passed in RFA No.453 of 2013 decided on 31.01.2019.

The ground for condonation and the sufficient cause which are the basic ingredients for allowing an application are absolutely missing. It is apparent that only on account of this Court having decided the issue of the landowners who were diligent to file the appeal within the prescribed period of limitation and have been successful in getting an order of remand, the present appeals have been filed which are hopelessly time barred. The ground for condoning the delay reads as under:-

“That the impugned award was passed on 01.05.2010 and the appellants were under the impression that there would be no remedy to file an appeal before this Hon'ble Court as their reference petition has been dismissed. The appellants are rustic villagers and do not know about the technicalities of law. Now in the 3rd week of February, 2019 when they came to know the fact that the other land owners whose land had been acquired under the same notification had already preferred an appeal before this Hon'ble Court and the same has been decided on 31.01.2019 and the matters have been remanded to the Ld. Reference Court, only then the appellants approached

their counsel at lower court and requested him to file their appeal and only then it came to their notice that their appeal has become time barred. It was only possible for them to reach and meet their present counsel on 07.03.2019. Thus the appeal has been filed without any further delay and the delay in filing the appeal is neither intentional nor wilful but has occurred due to the reasons mentioned above.

3. That there are sufficient grounds for the condonation of delay. In the case titled “N. Balakrishnan Versus M. Krishnamurti” reported as 1999 (1) PLR 462, it has been held that a sufficient cause should receive a liberal construction so as to advance substantial justice. Further in the case titled “Harbans Singh Versus Punjab National Bank and others” reported as 2003 PLR 1, it has been held that a litigant is not going to gain anything by filing an appeal at a belated stage. Unless some malafide and bad intention is attributed to him, mere filing of an appeal at a belated stage, will not disentitle him to get his appeal decided on merits.”

Counsel has further sought to argue that in similar circumstances in **RFA No.3502 of 2017 'Mohd. Altaf (deceased) through L.Rs. and others Vs. State of Haryana and others'** and other connected cases' decided on 22.02.2019, applications for condonation of delay of 2313 to 2633 days in filing the appeals have been allowed and the matters have been remanded, to be heard alongwith in terms of the order passed in **RFA No.3552 of 2010 'Om Parkash and others Vs. State of Haryana and others'** decided on 31.01.2019, which has dealt with the bunch of 82 appeals initially. It is submitted that the appellants also similarly placed as such.

The argument as such is bereft of any merit. In the case of

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Mohd. Altaf (supra), the appeals were filed in the year 2017 prior to the decision of this Court on 31.01.2019 in **Om Parkash (supra)**. The landowners had, thus, come though after delay, but not on the strength of the decision by this Court on 31.01.2019 in the case of the other landowners who are similarly situated persons. The present litigation has, thus, been initiated only on account of a positive order passed in favour of the diligent landowners who have filed their appeals way back in the year 2010 which were duly admitted and they were in queue and have been successful to make out a case for remand.

The present appellants had chosen not to contest the order dated 01.05.2010 and were satisfied with the dismissal of the reference petitions. It is interesting to note that in RFA No.1016 of 2019 out of the three appellants, appellant No.1-Hasan Mohd. also expired on 09.05.2011 and had also chosen not to agitate for his grievances. The said case has been filed by the legal heirs alongwith an application to be brought on record and pursue the litigation, which the original landowner had thought not fit. The lis had died with the said landowner. Therefore, this Court is of the opinion that they are not entitled for the similar benefit as has been granted to the litigants in the case of **Mohd. Altaf (supra)**.

In **Mewa Ram (deceased by LRs) & others Vs. State of Haryana AIR 1987 SC 45** wherein there was a delay of more than 3 years, which was not condoned and the landowners had felt satisfied with the compensation as awarded by High Court in that case. Another set of landowners had successfully approached the Apex Court and got

enhanced compensation on the basis of which condonation of delay which was sought was declined.

Similarly, the Apex Court in **Basawaraj & another Vs. Special Land Acquisition Officer 2013 (14) SCC 81**, has held that once no sufficient cause was shown and the litigants had not approached the Court, the delay was not liable to be condoned.

In **Brijesh Kumar & others Vs. State of Haryana & others AIR 2014 SC 1612**, 10 years 2 months and 29 days delay had not been condoned by this Court and the Apex Court refused to condone the delay by holding that the law of limitation may operate harshly and has to be followed with all its rigour where the statute so provides. Reliance was placed upon various judgments. Relevant portion of the judgment read as under:

“7. The issues of limitation, delay and laches as well as condonation of such delay are being examined and explained every day by the Courts. The law of limitation is enshrined in the legal maxim “Interest Reipublicae Ut 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, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

8. The Privy Council in [General Fire and Life Assurance Corporation Ltd. v. Janmahomed Abdul Rahim](#), AIR 1941 PC 6, relied upon the writings of Mr. Mitra in Tagore Law Lectures 1932 wherein it has been said that “a law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a

particular party as the Judge cannot, on applicable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognised by law.”

9. In [P.K. Ramachandran v. State of Kerala & Anr.](#), AIR 1998 SC 2276, the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under:– “Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.”

10. While considering a similar issue, this court in [Esha Bhattacharjee v. Raghunathpur Nafar Academy & Ors.](#) (2013) 12 SCC 649 laid down various principles inter alia:

“ x x x

v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact

vi) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play

x x x

ix) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x x x x

vii) The increasing tendency to perceive delay as a non-serious mater and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be

curbed, of course, within legal parameters.” (See also: [Basawaraj v. Land Acquisition Officer](#) (2013) 14 SCC 81)

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.

12. It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.

13. In [State of Karnataka & Ors. v. S.M. Kotrayya & Ors.](#), (1996) 6 SCC 267, this Court rejected the contention that a petition should be considered ignoring the delay and laches on the ground that he filed the petition just after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. The Court observed that such a plea is wholly unjustified and cannot furnish any ground for ignoring delay and laches.

14. Same view has been reiterated by this Court in [Jagdish Lal & Ors. v. State of Haryana & Ors.](#), AIR 1997 SC 2366, observing as under:– “Suffice it to state that appellants kept sleeping over their rights for long and elected to wake-up

when they had the impetus from Vir Pal Chauhan and Ajit Singh's ratios...Therefore desperate attempts of the appellants to re-do the seniority, held by them in various cadre.... are not amenable to the judicial review at this belated stage. The High Court, therefore, has rightly dismissed the writ petition on the ground of delay as well."

15. In *M/s. Rup Diamonds & Ors. v. Union of India & Ors.*, AIR 1989 SC 674, this Court considered a case where petitioner wanted to get the relief on the basis of the judgment of this Court wherein a particular law had been declared ultra vires. The Court rejected the petition on the ground of delay and laches observing as under:- "There is one more ground which basically sets the present case apart. Petitioners are re-agitating claims which they have not pursued for several years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided."

16. In the instant case, after considering the facts and circumstances and the reasons for inordinate delay of 10 years 2 months and 29 days, the High Court did not find sufficient grounds to condone the delay."

The landowners and their legal representatives having slept over their rights for a period of almost 9 years, cannot be allowed to approach this Court at their own whims and fancies and expect that the applications for condonation of delay will be allowed at the asking. The conduct of the appellants also cannot be appreciated in any manner as they playing ducks and drakes with the Court.

Resultantly, keeping in view the above discussion, this Court is of the opinion that the applications for condonation of delay of 3136 days in filing the appeals along with application for bringing on record

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legal representatives of the deceased-appellant Hasan Mohd. etc. are not liable to be allowed, in the present set of circumstances and the same are hereby, dismissed, along with the main appeals in limine.

MARCH 14, 2019

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No