

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

Civil Misc. No. 5728-CI of 2019 in/and
RFA No.2334 of 2019
Date of decision: 26.9.2019

Om Parkash (since deceased) through its L.Rs. and others

...Appellants

Versus

Haryana State and others

...Respondents

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

Present: Mr. Gaurav Aggarwal, Advocate for the appellants.

G.S.SANDHAWALIA, J. (Oral)

Exemption Application.

Allowed as prayed for.

CM No.5728-CI of 2019

The present appeal is directed against the award dated 4.2.1994 passed by the Reference Court, Gurgaon. There is a delay of 9116 days in filing the appeal. Two applications for bringing on record the legal representatives of appellant no.1 who died on 27.5.1988 and appellant no.8 who died on 16.8.1990 during pendency of the reference petition have also been filed alongwith the appeal.

Sufficient cause which is sought to be made out is that the appellants had approached their counsel before the Court below and after arranging the funds for filing the appeal in this Court approached the undersigned counsel. Neither any averment has been made that which counsel before this Court had been entrusted with the instructions to file the appeal. It is not disputed that the notification in question is dated 28.3.1985

and the Reference Court had granted Rs.80/- per sq. yard. Connected case bearing **RFA No.983 of 1993-Sewa Singh Vs. State of Haryana and another** was disposed of on 10.11.2008 and the enhancement had only been granted by Rs.7.50 per sq. yard.

Counsel for the appellants has vehemently placed reliance upon judgments in **Imrat Lal and others Vs. Land Acquisition Collector and others 2014(14) SCC 133, Dhiraj Singh (D) Tr. LRs. and others Vs. Haryana State and others 2015(1) SCC (Civil) 236 and Samiyathal Vs. Special Tehsildar 2015(2) RCR (Civil) 441.**

It is settled principle that sufficient cause atleast has to be made out.

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 matter 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.”

Once the appellants have slept over their rights for 14 years and

litigation had been finalised way back before this Court in 2008, this Court

is of the opinion that no case is made out as such to condone the delay of 9116 days in filing the appeal. The judgments referred to above would go on to show that the Apex Court as such had not condoned the delay in various other cases where the delay was of much lessor period. In such circumstances, to revive the dead litigation could not be in the interest of justice.

Accordingly, the application for condonation of delay of 9116 days in filing the appeal is dismissed in limine.

Resultantly, the applications for bringing on record the legal representatives of appellants no.1 and 8 as well as main appeal are also dismissed.

26.09. 2018

Pka

(G.S.SANDHAWALIA)

Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No