

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

**CM No. 15253-CWP of 2019 and
RA-CW No. 406 of 2019 in
CWP No. 1314 of 2015**

Date of decision : 16.10.2019

Satwanti and another

.....Applicants-petitioners

Versus

The State of Haryana and others

....Respondents

**CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present : Mr. Vikram Punia, Advocate for the applicants-petitioners.

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DAYA CHAUDHARY, J.

Petitioners filed CWP No.1314 of 2015 before this Court for quashing of order dated 16.10.2014, vide which their claim for release of their land from acquisition was rejected on the ground that their land was falling within 45 metre wide Sector road alignment and the policy of release of land was not applicable. Said writ petition was dismissed vide order dated 30.11.2015.

Now the applicants-petitioners have filed the present review application for reviewing/recalling of order dated 30.11.2015. Along with the review application, CM No.15253-CWP of 2019, an application for condonation of delay of 1373 days has also been filed. The only ground taken in the application for condonation of delay is that the applicants contacted their counsel after a period of 2 years and apprised about the latest

situation and thereafter, the present review application was filed.

Learned counsel for the applicants-petitioners submits that the land of the applicants is situated beyond the released land as proposed 45 metre wide sector road ends at the point of starting of land. He also submits that once the alignment of the road is not affected or disturbed then petitioners are entitled for release of their land. He further submits that house of the petitioners was located at the fag end and there was a big portion of land. There was no demarcation of the land. As per the changed plan, the 24 metre wide road had been reduced in length and part thereof has been changed to 12 metre wide. Learned counsel also submits that due to changed circumstances, the land of the petitioners can be released, as the same has not been utilised even after passing more than 5 years of taking over the possession by way of entry in *rapat rojnamcha*.

Heard arguments of learned counsel for the applicants-petitioners. We have also perused judgment dated 30.11.2015.

Undisputedly, there is a delay of 1373 days in filing of the review application and only reason, which has been submitted, is that the applicants-petitioners contacted their lawyer after a period of two years. However, more than 3 years and 9 months have passed and no reason, whatsoever, has been mentioned. The petitioners cannot take benefit of their conduct of laches as while exercising discretionary powers as many factors are to be taken into consideration. In case there is negligence or omission on the part of the applicants in contacting their counsel, then discretion cannot be exercised in their favour. The doctrine of laches in the

course of equity is not an arbitrary or technical as it is unjust to give benefit because of the conduct of the party. Two circumstances which are important in such like cases are the length of the delay and nature of acts done during the interval, due to which no efforts were made.

For condonation of delay some of the grounds which are necessary to be seen are as to whether some new and important facts have come to the notice of the parties which are not within their knowledge or could not be produced at the time of hearing of the case or any mistake or error is apparent on the face of record. Other than these, in case any sufficient reason is there, then discretion power can be exercised by the Court. The words “*any other sufficient reason*” have been interpreted in case ***Chhajju Ram Vs. Neki, AIR 1922 PC 112*** and same was relied further in judgment of case ***Moran Mar Basselios Catholicos Vs. Most Rev. Mar Poulouse Athanasius and others AIR 1954 SC 526***. Same principles were also reiterated by Hon'ble the Apex Court in case ***Union of India Vs. Sandur Manganese and Iron Ores Ltd. and others 2013(8) SCC 337***.

Review is not rehearing of the original case and power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. Power of review is very limited and it is to be confined strictly only to the errors apparent on the face of record. In case ***Kamlesh Verma Vs. Mayawati and others 2013 (3) GLH 143***, Hon'ble the Apex Court has held that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1 of CPC. In review jurisdiction,

mere disagreement with the view of the judgment cannot be a ground for invoking the same. In case the point has already been dealt with and answered, the parties are at liberty to challenge the impugned judgment. The review can be maintainable in case there is discovery of new and important facts which have not been raised even after exercise of due diligence or not within knowledge of the party or for any sufficient reason, it cannot be produced at the time of hearing of the case. The review is not rehearing of the original case. It cannot be exercised unless the Court is satisfied that there is material error and on face of order, it appears that it has resulted into miscarriage of justice.

Now in the present case, the delay of 1373 days has not been explained. Even during course of arguments, no efforts have been made by learned counsel for the applicants to explain the delay. The only ground taken is that the applicants contacted their lawyer after a period of two years but no reason has been mentioned as to what stopped them in contacting the lawyer. Even otherwise, the delay is not of two years only but it is more than 3 years and 9 months.

On merits also, no ground is made out to review the order as the only reason which has been submitted is that the land of the applicants have not been utilised, whereas after passing of the award, even in case the land has not been utilised, then also it cannot be released as the same is vested with the State. The award was passed on 18.01.2010. In case ***Tamil Nadu Housing Board Vs. L. Chandrasekaran and others 2010(2) SCC 786***, Hon'ble the Apex Court has held that in case the land is acquired for a

public purpose and that public purpose has not been achieved, then it can be utilised for any other public purpose and in case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount can be better utilised for the public purpose. In another case titled as ***State of Kerala Vs. Bhaskaran Pillai 1997(5) SCC 432***, Hon'ble the Apex Court has held that if a land is acquired for a public purpose and after achieving the public purpose, the rest of the land could be utilised for any other public purpose.

In case ***V. Chandrasekaran and another Vs. Administrative Officer and others 2012(12) SCC 133***, Hon'ble the Apex Court has held even to the extent that once the land is acquired and it vests in the State, it is not the concern of the land owner as to whether the land is being used for the purpose for which it was acquired or for any other purpose. The land owner becomes *persona non grata* once the land vests in the State. The land owner has the only right to receive compensation. Same view was held by Hon'ble the Supreme Court in cases ***National Thermal Power Corporation Ltd. Vs. Mahesh Dutta and others 2009(8) SCC 339***, ***Government of Andhra Pradesh Vs. Syed Akbar AIR 2005 SC 492***, ***C Panda and others Vs. The Deputy Secretary of Government of Tamil Nadu and others 1997(2) SCC 627***, ***Shri Chandragauda Ramgonda Patil and others Vs. State of Maharashtra and others SLP 16573 of 1996*** and ***Union of India and others Vs. Jaswant Rai Kochhar and others Civil Appeal No.4557 of 1996***.

In view of the facts and law position, as discussed above, the present review application is dismissed not only on the ground of delay but on merits as well.

**(DAYA CHAUDHARY)
JUDGE**

Dated : 16.10.2019
sunil yadav

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No