

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA No.5150 of 2018 (O&M)
Date of decision: 11.03.2019

Chaman Lal (deceased) th LRs

...Appellants

Versus

State of Haryana & another

...Respondents

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

Present: Mr.Deepak Girotra, Advocate, for the appellants.

Ms.Vibha Tewari, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

Present appeals, bearing RFA-1184 to 1190, 5148 & 5150-2018, have been filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') against the award of the Reference Court, Rohtak dated 03.11.2003, which are barred by 4937-5250 days.

The present set of appeals have been filed in the year 2017-2018 and reference is being made to RFA-5150-2018 titled *Chaman Lal (deceased) th LRs Vs. State of Haryana & another*, which was filed in September, 2017, after a period of almost 14 years.

Counsel for the applicant-appellants has sought to get the delay condoned on the basis of the judgments in **Imrat Lal and others vs. Land Acquisition Collector and others, 2014 (14) SCC 133, Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2014 (14) SCC 127 and Samiyathal & others Vs. Spl. Tahsildar & others 2015 (2) RCR (Civil) 441**, to submit that in similar

RFA-5150-2018 & other connected cases

circumstances, this Court had condoned the delay in RFA-1110-2018 titled *Des Raj Vs. State of Haryana & another*, decided on 23.01.2019 and in RFA-5379-2017 titled *Mahesh Chawla Vs. State of Haryana & another*, decided on 21.02.2018.

It has further been submitted that the acquisition was for the construction of the Lakhan Majra Link Drain and the appellants are residents of Village Lahli. A similar drain had also been constructed in the same district and in RFA-1190-2004 titled *Sat Narain & others Vs. State of Haryana & another*, decided on 25.02.2016, compensation has been enhanced to Rs.2,01,373/- per acre. It is submitted that separate awards, as such, were passed for different villages and the amount of compensation granted by the Land Acquisition Collector was the same and therefore, the benefit of the said judgment should also flow and the enhanced compensation should also be granted to the landowners.

It is pertinent to notice that in the applications for condonation of delay, it is the case of the appellants themselves that they had not preferred any appeal due to illiteracy, ignorance, poverty and lack of proper guidance. It is only after the decision on 25.02.2016, in Sat Narain's case (supra), when certain landowners had got the benefit of enhanced compensation, the present appellants had approached the counsel and thereafter, have filed the present appeals. Thus, it is apparent that the landowners had taken no steps, at any point of time, to seek their legal redressal.

Vide various CM applications, the legal representatives have also been sought to be brought on record and in RFA-1184-2018 titled

RFA-5150-2018 & other connected cases

Bahadur Chand & others Vs. State of Haryana & another, appellant No.3-

Ram Piari expired on 15.07.2008. Similarly, in RFA-1185-2018, appellant No.1-Phoolpati @ Phoolawanti expired on 27.01.2012, in RFA-1186-2018, appellant No.5-Bhanu Mati expired on 23.10.2014 and appellant No.8-Om Parkash expired on 11.06.1996, in RFA-5148-2018, appellant No.1-Bal Krishan Malhotra expired on 29.04.2005. In the present case, i.e., RFA-5150-2018, appellant No.1-Chaman Lal expired on 11.05.2005 and his sons, Inder Lal and Heera Nand also expired on 06.10.2000 and 25.06.2014, respectively. Thus, it is apparent that many of the landowners have themselves expired after the award had been passed on 03.11.2003 and had chosen not to seek their legal redressal. Their legal representatives, by virtue of the present applications, are seeking to revive dead cases, once the original landowners had opted not to file appeals and were satisfied with the amount awarded.

The delay, in the present cases, is colossal and the cause for not filing in time has not been duly explained. Even though judgment of the Apex Court in **Imrat Lal** (supra) has held that Court should adopt a liberal approach and in identical matters whereby relief has been granted, should be granted to the landowners. Similarly, in **Dhiraj Singh** (supra), the Apex Court has held that where the appellants were identically situated and the refusal to condone the delay by the High Court was not justified. In **Samiyathal** (supra), it was held that the landowners, on account of ignorance, poverty and other handicaps, were not able to approach the Reference court or have not contested the matter before the High Court or the Apex Court, can be given the same amount of

compensation as granted to the other landowners whose land was acquired, while exercising the powers under Article 142 of the Constitution of India.

It is, in such circumstances, this Court has to examine the judgment in **Sat Narain** (supra), to notice that the purpose of acquisition was the Meham Drain and the notification in question was dated 28.12.1996. The 5 revenue villages were Nindana, Anwal, Bainsi, Kalanaur and Jindran. In the present case, the village concerned is Lahli and the acquisition, as noticed, is of a different date i.e., 08.03.1997 and for construction of Lakhan Majra Link Drain. In such circumstances, this Court is of the opinion that there is no similarity, as such with the cases which have already been decided and therefore, this Court is of the opinion that the landowners are not identically situated to the cases in **Mahesh Chawla**(supra) and **Des Raj** (supra), which were pertaining to Village Anwal, as has been fairly conceded by the counsel and therefore, the benefit of condonation of delay, as has been done in those two cases, would also not arise.

State Counsel has, accordingly, rightly pointed out that the judgments passed by the Apex Court 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, in **Basawaraj & another Vs. Special Land Acquisition Officer 2013 (14) SCC 81**, it was 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.”

The landowners and their legal representatives having slept over their rights for a period of almost 15 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. Resultantly, keeping in view the above discussion, this Court is of the opinion that the applications for condonation of delay of 4937-5250 days in filing the appeals along with applications for bringing on record legal representatives of the deceased-appellants etc. are not liable to be allowed, in the present set of circumstances and the same are hereby, dismissed, along with the main appeals.

March 11th, 2019
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *Yes*