

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 820 of 2020

Amrut Lal @ Amrit Lal S/o Shri Baliram Aged About 55 Years R/o Village Barekel Khurd, Tehsil Pithora, District- Mahasamund, Chhattisgarh.

---Petitioner(s)

Versus

- 1.** State of Chhattisgarh Through Collector Mahasamund, District- Mahasamund, Chhattisgarh.
- 2.** Sub Divisional Officer (Revenue) Pithora, District- Mahasamund, Chhattisgarh.
- 3.** Hardayal Singh S/o Shri Hanuman Singh Aged About 49 Years R/o Village Lahroud, Tehsil- Pithora, District- Mahasamund, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Sarfaraz Khan Advocate.
For State	:	Shri Anmol Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04.03.2020

- 1.** Challenge in the present writ petition is to the proceeding under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (in short, the Code) initiated by the State authorities.
- 2.** Perusal of records would show that the Sub Divisional Officer (Revenue), Pithora, District Mahasamund had registered a Revenue Case No.04-A/23/2015-16. The petitioner herein was noticed and he had participated in the proceedings under Section 170-B of the Code. After due consideration and hearing all the parties, the SDO passed an order on 29.12.2017 holding that the sale of the disputed property between the respondent No.3 with the present petitioner is in contravention to Section 165 of the Code and in the process held the sale deed to be null and void.
- 3.** Under the provisions of the Code there is a provision for appeal under Section 44. The appeal in the instant case would lie to the Collector. The petitioner has not preferred any appeal against the said order of SDO.

4. The present writ petition now is being filed after a period of about 2 and ½ years time on 21.02.2020. No plausible explanation has been provided by the petitioner explaining the delay. In paragraph-7 of the writ petition also the petitioner submits that the writ petition is well within limitation and that there is no delay in filing the writ petition. Two and ½ years time for filing of a writ petition, particularly when the impugned order is one which has been passed in a bi-party proceeding, is too long a period for this court to exercise its extraordinary writ jurisdiction conferred upon this court under Article 226 of the Constitution of India.
5. The very fact that the petitioner has neither preferred an appeal nor promptly approached this court is sufficient to infer that the petitioner did not intend to challenge the same at that point of time and in the process the order passed by the SDO under Section 170-B of the Code has attained its finality. Under the circumstances, this court is of the opinion that the writ petition suffers from delay and laches.
6. It has been repeatedly held by the Hon'ble Supreme Court that against the impugned order, if a person wishes to approach the Court invoking writ jurisdiction, he should approach the Court within a reasonable period.
7. So far as the delay and latches are concerned, the law in this regard is by now well settled by a series of decisions of the Hon'ble Supreme Court. The question of delay and latches came to be considered recently by the Supreme Court in case of **State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others**¹ in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of court with inordinate delay, and held as under :

¹ 2013 (12) SCC 179

"In State of T.N. v. Seshachalam, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

8. Likewise, in the case of **Uttaranchal Forest Development Corpn. and another v. Jabar Singh and others**², it was observed as under:

"43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches."

9. Further, in the case of **New Delhi Municipal Council v. Pan Singh and others**³, the Supreme Court reiterating the principles relating to interference in cases where the petitioner approached the Court with unexplained delay, held as under:

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See *Govt. of W.B. v. Tarun K. Roy*, *U.P. Jal Nigam v. Jaswant Singh* and *Karnataka Power Corpn. Ltd. v. K. Thangappan*.)"

10. In the case of **P. S. Sadasivaswamy v. State of Tamil Nadu**⁴, it has been held as under:-

2(2007) 2 SCC 112

3(2007) 9 SCC 278

4(1975) 1 SCC 152

“It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner’s petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant’s petition as well as the appeal.”

11. In the case of **Bhoop Singh v. Union of India**⁵, it was held as under:-

“8. There is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed.”

12. Very recently in the matter of **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**⁶, the Supreme Court has clearly held that the delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation, and expressed their opinion as under-

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain

⁵(1992) 3 SCC 136

⁶2014 (4) SCC 108

circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with ‘Kumbhakarna’ or for that matter ‘Rip Van Winkle’. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.”

- 13.** In view of the aforementioned authoritative decisions of the Hon'ble Supreme Court, this Court does not find any good ground for entertaining the present writ petition and the same thus is dismissed on the ground of delay and laches.

Sd/-
(P. Sam Koshy)
Judge

inder