

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

**RFA No. 386 of 2019 (O & M)**

**Date of decision: 10.01.2020**

Dharam Singh (D) through L.Rs.

....Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Sant Kashyap, Advocate,  
for the appellants.

**G.S.SANDHAWALIA, J. (Oral)**

The present appeal filed under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') is directed against the award of the Reference Court, Karnal dated 02.02.1993. The appeal is barred by as many as 9380 days (around 23 years) in filing the same. The original land owner Dharam Singh has also died way back on 15.10.2000. Thereafter, one of his son namely Surjit Singh also died on 12.01.2012 and resultantly, an application for bringing on record his legal representatives has also been filed so that the appeal can be pursued.

Counsel has only submitted that the matter is covered by the judgment of this Court in *RFA No. 343 of 1992, Siri Ram vs. State of Haryana*, decided on 01.08.2011 (Annexure A-1) and, therefore, the delay may be condoned while denying the interest for the period of delay.

The said argument is not tenable. As noticed, the aforesaid judgment is of the year 1993. Thereafter, no effort was made by Dharam Singh to pursue the case and take it to its logical end whereas similarly situated land owners had got the higher compensation @ Rs.51/-per square yard whereas the present applicant-appellants have only got Rs.41/- per

square yard. Counsel for the appellant has relied upon the judgments of the Apex Court in ***Imrat Lal and others vs. LAC and others, 2014 (14) SCC 133, Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2015 (1) SCC (Civil) 236*** and ***Samiyathal and others vs. Special Tehsildar and others, 2015 (2) RCR (Civil) 441*** to submit that the interest benefit can be denied.

Perusal of the said judgments would go on to show that the delay of as much as 12 years was condoned. In the present case, the delay is much more. The delay is as such colossal and the explanation given is that the appellants were not aware of the acquisition. It is settled principle that the law of limitation is not to be thrown out the window and the parties cannot be free to wake up at any point of time and approach the Court. The Apex Court in ***'Pundlik Jalam Patil (D) by LR.s. vs. Exe. Eng. Jalgaon Medium Project and another', 2009 (1) PLR 128*** held as under:-

*“14.....The applicant having set the machinery in motion cannot abandon it to resume it after number of years because the authority with whom it had entered into correspondence did not heed to its request to file appeals. The question is : Can the respondent/applicant in this case take advantage of its negligence, after lapse of number of years, of the decision of Government? It knew the exact grounds on which appeals could have been preferred. The law will presume that it knew of its right to file appeal against the award. Everybody is presumed to know law. It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and `do not slumber over their rights.'*

xxx xxx xxx xxx xxx

18. Shri Mohta, learned senior counsel relying on the decision of

*this court in N. Balakrishnan vs. M. Krishnamurthy [(1998) 7 SCC 123] submitted that length of delay is no matter, acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as part of dilatory tactics the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a life span for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It is observed: It is enshrined in the maxim interest reipublicae up 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. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”*

The Apex Court in ***Mewa Ram (dead) by his LRs Vs. State of Haryana 1986 (3) SCR 660***, declined to grant the benefit of condonation of delay of more than 3 years. Relevant portion of the judgment reads as under:

*“The petitioners had all applied for reference under section 18 of the Act and the civil court by adopting a different basis for computation, namely treating the land to be potential building site, substantially enhanced the amount of compensation. On appeal there was further enhancement by the High Court. The petitioners have withdrawn large sums of money at each stage. For instance, the petitioner Mewa Ram withdrew on February 6, 1976 consequent upon the award of the Land Acquisition Collector Rs.1,19,000, an additional sum of Rs.28,938.20p. On*

*March 23, 1978 after the judgment of the learned Additional District Judge, and Rs.2,75, 105.42p. after the judgment of the High Court between December 11, 1981 and February 13, 1982. The judgment of the High Court not having been appealed from has admittedly become final. Evidently, the petitioners felt satisfied with the enhanced amount of compensation as awarded by the High Court @ Rs.12.25 per square yard because they did not apply for grant of special leave under Art. 136 of the Constitution for more than three years. Merely because this Court in the two cases of Paltu Singh and Nand Kishore enhanced the rate of compensation to Rs.17.50 per square yard, could not furnish a ground for condonation of delay under section 5 of the Limitation Act.*

*5. Furthermore, there is no provision in the Act apart from section 28A for reopening of an award which has become final and conclusive. No doubt section 28A now provides for the redetermination of the amount of compensation provided the conditions laid down therein are fulfilled. For such redetermination, the forum is the Collector and the application has to be made before him within thirty days from the date of the award, and the right is restricted to persons who had not applied for reference under section 18 of the Act. If these conditions were satisfied, the petitioners could have availed of the remedy provided under section 28A of the Act. In that event, section 25 would ensure to their benefit. Any other view would lead to disastrous consequences not intended by the Legislature.”*

**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*

*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 reagitating 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.”*

In the present case, no sufficient cause as such has been shown to condone the delay as admittedly, the original land owner also chose not to pursue the case. The cause of action died alongwith the said land owner in the year 2000 and, therefore, the legal representatives cannot seek the benefit of the above said judgments.

Accordingly the appeal alongwith the applications stand dismissed.

10.01.2020  
shivani

(G.S. SANDHAWALIA)  
JUDGE

Whether reasoned/speaking  
Whether reportable

Yes/No  
Yes/No