

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

**RFA No.3091 of 2018 (O&M)
Decided on : 03.03.2020**

Ramal Singh & others

... Appellants

Versus

Union of India & others

... Respondents

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

Present: Mr.Sahil Khunger, Advocate, for
Mr.Vishal Aggarwal, Advocate, for the appellants.

G.S. Sandhawalia, J. (Oral) :-

CM-6785-CI-2018

Application for condonation of delay of 72 days in refiling the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 72 days in refiling the appeal is hereby condoned.

CM stands disposed of.

RFA-3091-2018 (O&M)

The present appeal filed under Section 54 of the Land Acquisition Act, 1894 (for short the 'Act') is directed against the award of the Reference Court, Gurdaspur dated 21.03.1990, which is barred by 9955 days in filing.

The appeal has been preferred after a period of 27 years and the explanation given is that the power of attorney had been signed and given to clerk of the counsel at Pathankot who had assured the appellants that the appeal shall be filed. However, when the appellants came to know that the appeal was never filed and accordingly, the present counsel had filed the appeal.

Neither the details of the clerk have been given nor any communication as to what the appellants had been doing for the last 28 years, has been mentioned.

Counsel has argued that in land acquisition matters, Apex Court has condoned the delay conditionally, in view of the law laid down 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.**

It is also pertinent to notice that applications had been filed for bringing on record the legal representatives of appellant No.2, who had expired in the year 2008 and appellant No.3 who expired in the year 2011. The cause of action died with the original landowners who had preferred not to file the appeal during their lifetime. 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, had not condoned the delay and held that the landowners had felt satisfied with the compensation as awarded by High Court in that case. Merely because 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 but 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

xvii) 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. vs. 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.”

In view of the aforesaid, no ground is made out to condone the inordinate delay in filing the appeal, as no sufficient cause has been shown. Consequently, the applications to implead the legal representatives as well as the main appeal, are dismissed.

March 3rd, 2020
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No