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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 5th November, 2020

+ LPA 455/2019

NORTH DELHI MUNICIPAL CORPORATION Appellant

Through: Mr.Ajay Arora, Advocate

Versus

AVINASH BANSAL

..... Respondent

Through: Mr.Sanjeev Sindhwani, Dr.Anurag
Aggarwal, Mr.Kapil Midha &
Ms.Abhivandana Chowdhury,
Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D.N. PATEL, Chief Justice (Oral)**

Proceedings of the matter have been conducted through video conferencing.

CM APPL. 31649/2019 (condonation of delay of 197 days in filing the present appeal)

1. This application has been preferred by the Appellant - North Delhi Municipal Corporation seeking condonation of 197 days' delay in preferring the Letters Patent Appeal.

2. The reasons stated for delay in its civil miscellaneous application reads as under:

“4. That there is delay of 197 days in filing of the present appeal which is because of the administrative delay, firstly the concerned officer was transferred to some other department, and secondly the new officer concerned was assigned election duties.

5. That appellant herein has high regards for the orders passed by the Hon'ble Court or by any court of law and have always taken the utmost priority.

6. That the appellant North DMC undertakes to remain more careful for timely compliance of the orders passed by the Hon'ble Court in future.”

3. Learned counsel for the appellant submitted that the aforesaid reasons are sufficient reasons for condonation of delay and therefore delay of 197 days in preferring the LPA may kindly be condoned.

4. We have heard learned counsel appearing for the respondent, who has opposed the condonation of delay and submitted that reasons for condonation of delay are not sufficient at all.

5. Learned counsel for respondent has taken this Court to the decisions of the Apex Court in ***Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563*** and ***Basawaraj v. Land Acquisition Officer, AIR 2014 SC 746***.

6. It is further submitted by learned counsel for the respondent that in view of the aforesaid decisions, the reasons for condonation of delay mentioned in the application are not sufficient and there is gross negligence on the part of the appellant. Hence, the delay in preferring the LPA may not be condoned.

7. Having heard learned counsel for both the sides and looking into the facts and circumstances of the case, the reasons stated in this civil

miscellaneous application are not sufficient for condonation of delay. It is stated in the application that because of administrative reasons, there is 197 days' delay in preferring the LPA, namely, one officer was transferred and new officer was assigned election duties. No further details have been pointed out in this application.

8. It has been held by Hon'ble the Supreme Court in ***Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563*** as under:-

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any

acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.” (emphasis supplied)

9. In ***Basawaraj v. Land Acquisition Officer, AIR 2014 SC 746***, the Hon’ble Supreme Court further held as under:-

“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266:

“605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.”

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by

long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) 7 SCC 510], Rajender Singh v. Santa Singh [(1973) 2 SCC 705 : AIR 1973 SC 2537] and Pundlik Jalam Patil v. Jalgaon Medium Project [(2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907].

14. xxx xxx xxx

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.” (emphasis supplied)

10. The above observations of the Hon’ble Apex Court were taken note of by this Court in LPA No.779/2019 titled ***Airports Authority of India vs. KGA Investments & Anr.*** decided on 18.12.2019.

11. In view of the aforesaid facts, reasons and judicial pronouncements, there are no reasonable reasons for condonation of 197 days’ delay in preferring the LPA. Hence, the prayer for condonation of 197 days’ delay in preferring the present LPA is declined and this application is hereby dismissed.

LPA 455/2019 with CM APPL. 31650/2019 (stay) & CM APPL. 6880/2020 (seeking vacation of order dated 20.01.2020)

In view of the order passed in the above CM No.31649/2019 declining the condonation of 197 days' delay in filing the appeal, this Letters Patent Appeal and the pending applications do not survive and the same are disposed of accordingly.

The interim orders passed by this Court are hereby vacated.

CHIEF JUSTICE

PRATEEK JALAN, J

NOVEMBER 5, 2020
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