

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

R.F.A.No.95 of 2021(O&M)

Date of Order: 06.09.2021

Shanti Sarup and Another

..Appellants

Versus

Land Acquisition Collector and Another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dharamvir Sharma, Advocate
for the appellants.

Mr. Shivendra Swaroop, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The appellants pray for condoning the delay of 6313 days (more than 17 years) in filing the appeal. The land owned by the predecessors of the appellants located in Village Khandsa, Tehsil and District Gurugram, has been acquired for public purposes, namely, for industrial, residential, construction of roads and retention of green-belts in Sector 37, Gurugram, vide notification dated 22.07.1996, issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”). The Land Acquisition Collector passed an Award No.10 dated 30.12.1998, while assessing the market value of the acquired land at the rate of Rs.7,05,000/- per acre. The predecessors of the appellants along with other owners applied for reference under Section 18 of the 1894 Act, which was duly referred to the Court of Additional District Judge, Gurugram. The aforesaid reference along with cases of various other owners who applied

for reference were decided by the Additional District Judge vide an Award dated 27.08.2002. The predecessors of the appellants did not file an appeal under Section 54 of the 1894 Act, whereas, various other owners did file the appeals under the aforementioned provision of the 1894 Act. The appeals filed by the various other owners came to be decided by this Court on 23.09.2014, enhancing the market value of the land from Rs.13,72,750/- to Rs.20,66,000/- per acre.

The appellants claim that they are also entitled to the same amount of the compensation as has been ordered to be paid to various other owners of the land. The appellants seek condonation of delay of 6313 days on the following ground:-

“That Sh. Shanti Sarup alias Shanti Swarup (since deceased) used to deal with this case and he died on 01.04.2019. That after the death of Sh. Shanti Sarup, now the applicants-appellants came to know about this matter that the case has been decided vide Award dated 27.08.2002 by the learned Reference Court Gurugram and thereafter, appeal filed by the State against this award has also been decided by this Hon'ble Court vide judgment dated 23.09.2014. After the death of the deceased Sh. Shanti Sarup his Will was revealed and when the information was received about it only then the applicants came to know about this litigation.

It is humbly submitted that the appellants are poor persons and belong to rural area of Haryana State. After finding out this litigation and arranging the money, the applicants-appellants have engaged the present counsel and now are filing the present appeal before this Hon'ble Court. Due to this reason a delay of 6313 days has occurred which is neither intentionally nor knowingly, but it is bonafide mistake on the part of the appellants.”

It is crystal clear that late Sh. Shanti Sarup died on 01.04.2019, whereas, the Reference Court decided the cases on 27.08.2002. There is no justifiable explanation as to why late Sh. Shanti Sarup did not opt to file the appeal, particularly, when various other owners did file their appeals. The

High Court decided the appeals of the various other owners in September, 2014, still the appellants did not wake up from their deep slumber.

Unequivocally, while considering the application for condonation of delay, the Court is required to adopt a pragmatic view. However, Section 5 of the Limitation Act, 1963, provides that the delay can be condoned only, if the sufficient cause is shown. This Bench while deciding Regular First Appeal No.673 of 2021, after discussing the various judgments passed by the Hon'ble Supreme Court, has held as under:-

*“5. Now, the question, which arises is as to whether the Court should condone the delay without looking into the reasons given in the application? The 1963 Act is a statute of repose. The Act provides that the appellant is required to explain sufficient cause for delay in filing the appeal. No doubt, the Supreme Court has held in various judgments including the judgment in **Ningappa Thotappa Angadi** (supra) that efforts must be made to condone the delay in order to do substantive justice. However, at the same time, it is also the duty of the appellant to make out a case for condoning the delay. The Court cannot be expected to condone the delay without looking into the sufficiency of the cause shown. To show sufficient cause, the appellant is required to give reasonable and plausible explanation. He is also expected to show that the delay is not due to his negligence or inaction. Further, he is also required to show that his conduct does not suffer from malafides.*

*6. At this stage, it is important to examine the relevant case laws. In **Balwant Singh (Dead) v. Jagdish Singh and Others (2010) 8 SCC 685**, while examining the application for condoning the delay in the application for bringing on legal representatives, it was held as under :-*

“26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right, as accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or

inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly.

27. The application filed by the applicants lack in details. Even the averments made are not correct and ex facie lack bona fide. The explanation has to be reasonable or plausible, so as to persuade the Court to believe that the explanation rendered is not only true, but is worthy of exercising judicial discretion in favour of the applicant. If it does not specify any of the enunciated ingredients of judicial pronouncements, then the application should be dismissed. On the other hand, if the application is bona fide and based upon true and plausible explanations, as well as reflect normal behaviour of a common prudent person on the part of the applicant, the Court would normally tilt the judicial discretion in favour of such an applicant. Liberal construction cannot be equated with doing injustice to the other party.

28 to 33 XXXX XXXX XXXX XXXX

34. Liberal construction of the expression 'sufficient cause' is intended to advance substantial justice which itself presupposes no negligence or inaction on the part of the applicant, to whom want of bona fide is imputable. There can be instances where the Court should condone the delay; equally there would be cases where the Court must exercise its discretion against the applicant for want of any of these ingredients or where it does not reflect 'sufficient cause' as understood in law.

35. The expression 'sufficient cause' implies the presence of legal and adequate reasons. The word 'sufficient' means adequate enough, as much as may be necessary to answer the purpose intended. It embraces no more than that which provides a plentitude which, when done, suffices to accomplish the purpose intended in the light of existing circumstances and when viewed from the reasonable standard of practical and cautious men. The sufficient cause should be such as it would persuade the Court, in exercise of its judicial discretion, to treat the delay as an excusable one. These provisions give the Courts enough power and discretion to apply a law in a meaningful manner, while assuring that the purpose of enacting such a law does not stand

frustrated”.

7. Similarly in ***Basawaraj and Another v. The Special Land Acquisition Officer (2013)14 SCC 81***, the Supreme Court, while dealing with a case arising from determination of the market value of the acquired land, held as under;-

“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is “adequate” or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: ***Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors.***, AIR 1964 SC 1336; ***Lala Matadin v. A. Narayanan***, AIR 1970 SC 1953; ***Parimal v. Veena @ Bharti*** AIR 2011 SC 1150; and ***Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai*** AIR 2012 SC 1629).

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11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only ***so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned***, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: ***Madanlal v. Shyamlal***, AIR 2002 SC 100; and ***Ram Nath***

Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors., AIR 2002 SC 1201.)

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.

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15. The law on the issue can be summarized 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 bonafide 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"

8. Similarly while deciding the power of the Land Acquisition Officer to condone the delay in filing an application under Section 28-A of the Land Acquisition Act 1894, the Supreme Court, in **Popat Bahiru Govardhane and Others v. Special Land Acquisition Officer and Another (2013) 10 SCC 765**, held as under:-

"16. 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. 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. “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 delay is of more than 17 years which is colossal. In the considered view of the Bench, the appellants have failed to furnish any justifiable explanation to condone the delay. Considering, the appellants have failed to furnish sufficient explanation for condoning the delay, on that account, this Court is left with no other alternative but to dismiss the application.

Consequently, the appeal is also dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

6th September, 2021

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No