

In the High Court of Punjab and Haryana, at Chandigarh

1. Regular First Appeal No. 799 of 2021 (O&M)

Vipin Kumar and Another
... Appellant(s)
Versus
State of Haryana and Others
... Respondent(s)

2. Regular First Appeal No. 800 of 2021 (O&M)

Om Parkash and Others
... Appellant(s)
Versus
State of Haryana and Others
... Respondent(s)

3. Regular First Appeal No. 801 of 2021 (O&M)

Vipin Kumar and Others
... Appellant(s)
Versus
State of Haryana and Others
... Respondent(s)

4. Regular First Appeal No. 802 of 2021 (O&M)

Raghbir and Another
... Appellant(s)
Versus
State of Haryana and Others
... Respondent(s)

5. Regular First Appeal No. 803 of 2021 (O&M)

Vipin Kumar and Another
... Appellant(s)
Versus
State of Haryana and Others
... Respondent(s)

AND

6. Regular First Appeal No. 804 of 2021 (O&M)

Ramphal and Others

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

DATE OF DECISION: 23.08.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Dev Kaushik, Advocate
for the appellant(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for respondent No.1 and 2.

Mr. Pritam Singh Saini, Advocate
for respondent No.3.

Anil Kshetarpal, J.

1. Through this judgment, Regular First Appeal No. 799 to 804 of 2021 shall stand disposed of.

2. The appellants have, in all the six appeals, filed respective applications under Section 5 of the Limitation Act, 1963 (hereinafter referred to as “the 1963 Act”) to condone the delay of 3134 days in filing the appeals. In all these appeals, the explanation for seeking condonation of delay is common, which reads as under:-

“2. That after the disposal of the aforesaid references by the Ld. ADJ, Jhajjar the appellant lost all the hope as the land was also lost on account of the acquisition and sufficient compensation was also not awarded as per the Act. Due to poor family circumstances, and lack of legal awareness also the appellants did not prefer the appeal.

3. That in the year 2018 when the appellants came to know that the compensation amount of the adjoining village

land owners has been increased, the present appellants approached to their advocate and handed over all the documents to file the appeal, but the concerned advocate did not file the appeal and lost all the documents. Now the appellants are filing the present appeal through different counsel. The delay is bonafide. In view of Imrat Lal's judgment, the delay in filing the appeal may kindly be condoned".

3. Heard the learned counsel for the parties and with their able assistance, perused the paper-books.

4. The learned counsel for the appellants contends that while considering the application for condoning the delay in the cases involving the award of the compensation for compulsory acquisition of the land, the Court must adopt a liberal and pragmatic view and should not look into the sufficiency or insufficiency of the cause shown. In support, he relies upon the judgment passed by the Supreme Court in ***Ningappa Thotappa Angadi (Dead) through LRs. v. The Special Land Acquisition Officer and Another 2019 (12) JT Supreme Court 289*** and ***Dheeraj Singh v. Haryana State (2014) 14 SCC 127***.

5. On careful reading of the explanation, the appellants have failed to disclose the sufficient reasons. The land of the appellants was acquired vide award No. 12 dated 12.02.2006. They had filed the applications for referring the matter to the Court under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the 1894 Act"). The Additional District Judge, Jhajjar, vide judgment dated 18.05.2011 dismissed the petitions.

They, as asserted, lost all the hopes and therefore, did not file appeals. The

other land owners filed the appeals, which were decided by the High Court on 12.02.2016. The appellants still did not file any appeal. As per their assertion in para 3, the appellants came to know about the enhancement of the compensation, however, still the appeals have been filed on 02.07.2021. Although the learned counsel for the appellants has asserted that the appellants had handed over the documents in the year 2018 to the Advocate, yet he did not file any appeal. However, the name and particulars of the counsel, engaged has not been disclosed.

6. Section 5 of the 1963 Act provides that on sufficient cause being shown, the Court has the enabling power to extend the period of limitation or in other words, condone the delay in filing the appeal. However, the question, which arises for consideration is as to whether the Court should condone the delay without looking into the reasons given in the application. While deciding the Regular First Appeal No. 673 of 2021, this Bench, after discussing the various judgments of the Supreme Court, 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).*

10. XXXX XXXX XXXX XXXX

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.

13 and 14. XXXX XXXX XXXX XXXX

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 relief what it considers a distress resulting from its operation”.

7. Learned counsel representing the appellants relies upon the judgment in ***Dheeraj Singh’s case*** (*supra*). In the aforesaid case, the Supreme Court held that while considering the application, the Court must have a pragmatic and not pedantic view. No doubt, the Courts should be liberal in condoning the delay in the cases of determination of compensation on account of compulsory acquisition of the land. However, it is for the appellants to furnish some semblance of the plausible explanation. The delay cannot be condoned on a mere prayer being made.

8. Keeping in view the aforesaid facts, let us examine the explanation asserted by the appellants. The first ground is that they lost all hopes. The second reason is that due to their poor family circumstances and lack of legal awareness, they did not file the appeal. As regards, the first reason that the appellants lost all the hopes, in the considered opinion of this Bench, cannot be a ground for condoning such a colossal delay. As regards the assertion due to poor family circumstances, it would be noted that it lacks sufficient details. The appellants are the owners of the land in the National Capital Region. The land, subject matter of the acquisition, is situated in District Jhajjar, Haryana, which is around 50 kms. from New Delhi. Furthermore, as noticed above, the appellants have themselves admitted that they came to know of the enhancement by the High Court in the year 2018. However, still no appeal was filed. They have also not disclosed the name and details of the counsel, who has engaged for filing the

delay.

9. On careful reading of para No.10 of the judgment passed in *Dheeraj Singh's case (supra)*, the Supreme Court noticed that the respondent in the aforesaid case did not dispute the financial weakness of the appellants. In that context, the Supreme Court observed that the Court must adopt a pragmatic approach rather than pedantic. In the present case, the aforesaid judgment has no applicability.

10. The Supreme Court while deciding the case *Ningappa Thotappa Angadi's case (supra)*, with greatest respect, did not lay down that despite the facts that, the application seeking condonation of delay does not disclose the sufficient and credible reasons or where the Court finds that the application lacks bonafide on the part of the applicant, still the delay must be condoned. As noticed above, the delay is colossal. The appellants have now sought the condonation of delay when they know from the last five years that the compensation of the adjoining owners has been enhanced.

11. Keeping in view the aforesaid facts, the appellants have failed to make out a case of 3134 days in filing the appeals. Hence, the applications filed for condoning the delay, in all the appeals, are dismissed. Consequently, all the six appeals shall stand dismissed.

(Anil Kshetarpal)
Judge

August 23, 2021
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No