

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.2068 of 2021(O&M)

Date of decision: .09.2021

Lakhmi and others

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Chaudhary, Advocate
for the appellants.

Mr. Shivendra Swaroop, AAG, Haryana

ANIL KSHETARPAL, J.

The appellants pray for condoning the delay of 2175 days (nearly six years) in filing the regular first appeal. The appellants were the owner of the land which was compulsorily acquired by the respondent(State) vide the various awards passed by the Land Acquisition Collector in the year 2010. Various owners including the appellants filed applications for referring the matter to the Court for determination of the compensation. On being referred, the Additional District Judge, Sonipat, enhanced the compensation on 31.01.2014. The various other owners filed the appeals before the High Court, whereas the appellants did not opt to file any appeal. The High Court decided the appeals filed by the various owners on 16.02.2016, while further upward revising the market value. The appellants have filed this appeal on 07.09.2021. Paragraphs 2, 3 and 4 of the application seeking condonation of delay reads as under:-

“2. That the award in the present case was passed on

31.01.2014 by the Additional District Judge, Sonapat but the applicants were not aware about the passing of the award, as the appellant no.1 is too much old aged person and the appellant no.2 to 4 not residing in the village now due to their employment. The applicants came to know about the award passed by Id. Additional District Judge, Sonapat in the year 2016 when they visited the village in a marriage function. Thereafter, the applicants and other co-claimants i.e. legal heirs of Sabha Chand decided that they would file the appeal jointly. Later on the legal heirs of Sabha Chand filed appeal about which applicants not apprised despite the fact that applicants/appellants were under the bonafide impression that they would file the appeal with other co-claimants.

When the appellant no.2 visited house of his sister at Rohtak where he met Sh. Inderjeet Singh son of Late Sh. Sabha Chand also, who apprised the appellant no.2 that they have approached Hon'ble High Court by filing the appeal i.e. RFA No.3240 of 2016, against the award dated 31.01.2014 and the Hon'ble High Court disposed off their appeal vide order dated 10.11.2017 as the same was covered with the judgment dated 16.02.2016 passed in RFA No.3397 of 2014 titled as Kartar Singh & Ors vs. State of Haryana & Ors.. Thereafter appellant no.2 collected the photocopy of order dated 10.11.2017 and award dated 31.01.2014 in the month of February 2020 from said co-claimant Sh. Inderjit Singh son of Late Sh. Sabha Chand.

3. That thereafter, the applicant Ishwar Singh Malik informed the other claimants, then decided to file the appeal before the Hon'ble High Court and as such contacted his counsel in the month of March 2020 for filing the appeal in the Hon'ble High Court. The

applicants/appellants were under the process of filing the appeal but unfortunately due to corona pandemic, lockdown declared in the month of March 2020 because of which appellants could not filed the appeal during the period 2020-21. The Hon'ble Supreme Court also ordered in Suo Motu Writ Petition (Civil) No.3 of 2020 to condone the delay for the period of corona pandemic till further orders. The appellants again contacted their counsel in the month of August 2021 for filing of the present appeal in view of the fresh guidelines issued for filing the matters before this Hon'ble Court.

4. That the appeals in the connected matters have already been filed and has been decided vide judgment dated 16.02.2016 in RFA No.3397 of 2014 titled as Kartar Singh & Ors. vs. State of Haryana and others and the appeal filed in the present LAC No.151 by the other claimants namely Ram Singh and Chhote Lal has also been decided on dated 05.04.2016. Further the RFA No.3240 of 2016 filed by Legal Heirs of late Sh. Sabha Chand in the present LAC Case No.151 decided by this Hon'ble Court vide order dated 10.11.2017 being covered by judgment passed in RFA NO.3397 of 2014. The present appeal also covered by the judgment dated 16.02.2016 passed in RFA No.3397 of 2014.”

It is crystal clear that the appellants, as per their own case, gained knowledge of the decision of the learned Additional District Judge in the year 2016 and decided to file an appeal along with legal heirs of Sabha Chand. However, they did not file any appeal in the year 2016. It has been asserted that when appellant no.2 visited the house of his sister, he met Sh. Indereet Singh son of Late Sh. Sabha Chand, who apprised him about the filing of the appeal. The appellants have not pleaded as to when appellant

no.2 visited the house of his sister at Rohtak. From the paper book, it is clear that the appeal filed by the legal representatives of late Sh. Sabha Chand was disposed of on 10.11.2017. The appellants have also not disclosed as to when they received enhanced amount as ordered by the learned Additional District Judge. Hence, it is evident that the appellants have failed to disclose sufficient reasons to condone the colossal delay of nearly 6 years.

While deciding Regular First Appeal No.673 of 2021 (**Gurmeet Singh vs. State of Haryana and another**) and other connected appeals, on 09.08.2021, this Bench after considering the various judgments passed by the Courts, 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.

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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”.

9. In the present case, the reason put forth for seeking condonation of delay, is factually incorrect. The appellant is the resident of village Saketri, which is located on the outskirts of tricity of Chandigarh-Panchkula-Mohali. The land of the appellant and certain other owners was acquired by issuing a notification under Section 4 of the Land Acquisition Act, 1894, on 16.03.1999. The Land Acquisition Collector, Panchkula, had passed the award on 09.10.2003. Since then the appellant has been litigating in the Courts for re-determination of the market value. The appellant was also represented by a counsel before the Reference Court. In these circumstances, this Bench is of the considered view that the delay in filing the appeal cannot be condoned without looking at the reasons. No doubt, it would not be appropriate for the Court to insist upon an explanation for the delay of each day. However, liberal view cannot be extended to nullify/ignore the law of

limitation. If the argument of learned counsel is accepted, it would render Section 5 of the 1963 Act redundant. In this case, the appellant is a fence sitter. He now wants to take the benefit, only because the result has been announced and made final. He wants to enjoy the fruits not earned by his hard work by merely filing an appeal.

Since, the appellants have failed to bring to light sufficient reasons for condoning the colossal delay of 6 years, hence, this Bench is left with no choice but for to dismiss the application for condonation of delay.

Consequently, the appeal is also dismissed.

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

22nd September, 2021
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(ANIL KSHETARPAL)
JUDGE

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