

In the High Court of Punjab and Haryana, at Chandigarh

1. Regular First Appeal No. 673 of 2021 (O&M)

Gurmeet Singh

... Appellant(s)

Versus

State of Haryana and Another

... Respondent(s)

2. Regular First Appeal No. 674 of 2021 (O&M)

Gurmukh Singh

... Appellant(s)

Versus

State of Haryana and Another

... Respondent(s)

AND

3. Regular First Appeal No. 702 of 2021 (O&M)

Gurmukh Singh and Another

... Appellant(s)

Versus

State of Haryana and Another

... Respondent(s)

DATE OF DECISION: 09.08.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sushil K. Sharma, Advocate
for the appellant(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. Through this judgment, Regular First Appeal No. 673, 674 and
702 of 2021 shall stand disposed of.

2. The appellants have, in all the three appeals, filed respective applications under Section 5 of the Limitation Act, 1963 (hereinafter referred to as “the 1963 Act”) to condone the delay of 447 and 459 days in filing the appeals. In all these appeals, the explanation for seeking condonation of delay is common, which reads as under:-

“3. That the applicant-appellant is an illiterate person and due to no knowledge about the law of limitation for filing the regular first appeal and also she has no knowledge about the fact that the appeal lies against the award passed by the reference Court for the enhancement of compensation.

4. That it is pertinent to mention here that the applicant-appellant earlier filed the Regular First Appeal before this Hon’ble Court and this Hon’ble Court remitted back all the matter to the reference Court for a fresh decision and ultimately the Reference Court were decided all the references on 20.09.2018 but the applicant-appellant now know about the decision of the Reference Court. The applicant-appellant came to know later on about the filing of appeal by all other persons whose lands have been acquired and who have filed the appeals in this Hon’ble Court within the stipulated period”.

3. Heard learned counsel representing the appellant. Learned counsel contends that while considering the application for condoning the delay in the land acquisition cases, the Court must take a liberal and pragmatic view and should not look into the sufficiency or insufficiency of

Supreme Court in *Ningappa Thotappa Angadi (Dead) through LRs. v. The Special Land Acquisition Officer and Another (Civil Appeal No. 9415 of 2015, decided on 13.12.2019)*.

4. It would be noted here that in the previous round, reference petitions under Section 18 of the Land Acquisition Act, 1894, were decided by the Court of Additional District Judge on 30.10.2011. The appellant along with the other owners filed various appeals, which were accepted vide an order dated 14.11.2007. The matter was remitted to the reference Court for re-decision. The Court re-decided the matter on 20.09.2018. Thereafter, the appellant did not chose to file an appeal, whereas the other identically situated owners of the land, which was the subject matter of the same award, did file appeals before the High Court. The appeals, filed by the other identically situated owners, were decided vide a judgment dated **27.05.2020** while enhancing the market value of the acquired land when compared to the assessment of the Additional District Judge. The appellant has filed this appeal on 03.12.2020, i.e. long after the judgment passed by the High Court in the connected cases. Thus, obviously, the appellant after being aware of the fact that the market value has been assessed by the High Court in the appeals filed by others at a higher rate, when compared with the assessment made by the Reference Court, has chosen to file the appeal. The plea put forth by the appellant(s) to seek condonation of delay lacks bonafide. He has filed the appeal in order to get a higher market rate as assessed after the Court has already adjudicated the matter. Still further, it is apparent that the plea taken by the appellant is factually incorrect. The appellant, in para 4,

the High Court, which was allowed. Thus, the appellant cannot claim that he had no knowledge about the law of limitation and he does not have knowledge of the fact that the appeal can be filed against an award passed by the Reference Court. Still further, he was represented by a counsel before the Court of Additional District Judge, Panchkula. He does not assert that he was not aware as to when the other owners filed their respective appeals.

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 :-

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

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.

10. As far as the judgment in *Ningappa Thotappa Angadi* (Supra) is concerned, the Hon'ble Supreme Court, with greatest respect, does not lay down that even if the application seeking condonation of delay does not disclose sufficient, explanatory and credible reasons or where the court finds that the application lacks bonafide on part of the applicant, still the delay must be condoned.

11. Keeping in view the aforesaid facts, the appellants have failed to make out a case for condoning the delay of 447 and 459 days, respectively, in filing the regular first appeals, particularly when the other connected appeals stand decided before the filing of these appeals. Hence, all the three appeals are dismissed.

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Two Other Connected Appeals**

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12. The miscellaneous application(s) pending, if any, in all the appeals, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

**August 09, 2021
“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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