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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 04th December, 2021

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LPA 393/2020 & CM APPL. 33416/2020 (*Delay of 990 days in filing LPA*) & CM APPL. 33417/2020 (*Interim Stay*)

GOVERNMENT OF NCT OF DELHI
THROUGH SECRETARY

..... Appellant

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate.

versus

PREM SINGH

..... Respondent

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL. 33416/2020

1. Present application has been filed under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 990 days in preferring the present Letters Patent Appeal.
2. This appeal has been preferred against the judgment and order of the learned Single Judge dated 12.03.2018 in W.P.(C) No. 10969/2016 (Annexure A-1 to the memo of this appeal).
3. We have perused the application seeking condonation of delay. The explanation sought to be given to justify the delay is that after the judgment was rendered on 12.03.2018, being a Government Institution, Appellant was

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bound to seek legal opinion from the Competent Authority, before initiating the process for filing an appeal. Dispatch registers pertaining to the year 2005 were searched and thereafter, approval to file the appeal was given on 29.04.2019 and the file was sent to the counsel for drafting the appeal. It is also averred in the application that the process of granting approval took some time as the legal department takes care of all the legal matters of the department and the officers were extremely busy in scrutinizing cases filed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the purpose of preferring SLPs before the Hon'ble Supreme Court. It is further sought to be explained that during the relevant period, counsel was trying to gather information from the Appellant regarding similar cases pending in the Courts and their outcome so that appropriate remedy could be resorted to. Additionally, after the appeal was drafted and sent for approval and signature on 07.02.2020, the same could not be returned to the counsel until 29.09.2020 on account of pandemic COVID-19. It is urged that the delay is unintentional and *bona fide* and be condoned in the interest of justice. For ready reference, relevant paragraphs of the application are extracted hereunder:-

“2. That as the present appeal challenges the impugned order dated 12.3.2018 which affects the settled preposition of law on the issue of delay while moving application for alternative plot within the stipulated period of one year. However, being a government institution, the appellant was bound to seek legal opinion from the competent authority before initiating the accompanying appeal. The dispatch registers pertaining to the year 2005 were searched and approval to file the present LPA was given on 29.4.2019 and

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vide letter dated 3.5.2019, the file was sent to the counsel for drafting of appeal. It is stated that the consideration of the said aspect of granting approval or not took some time as the legal department of the appellant has been extremely busy while scrutinizing the cases filed under section under 24 (2) of the new Act, 2013 for the purposes of referring the SLP before the Hon'ble Supreme Court of India and thus which the accompanying appeal could not be approved within the period of limitation. The appeal also could not be filed as during the period, the counsel tried to abstract information from the appellant regarding the cases of similar nature which may have been dismissed by the Hon'ble Court and further remedy may have been taken thereafter. The delay in filing the present appeal also occurred as during the period, the proposal was moved within the department to condone the little delay however the said proposal was turned down. The present appeal was thereafter drafted immediately and sent for approval and signature on 07.02.2020 but due to pandemic Covid-19, the delay further occurred and signed appeal could be returned to the counsel on or around 29.9.2020 and immediately the same was processed and filed before the Hon'ble Court. The said delay is unintentional and without any motive to delay or prolong the proceedings but circumstantial, stated supra.

3. That it is stated that even otherwise, no prejudice would be caused to the respondents if the present application would be allowed and the delay in filing the accompanying appeal would be condoned.

4. That it is stated that there is no impediment either in law or equity as to why the relief prayed in the present application be not granted to the appellant as the present application is filed bonafide and in the interest of justice.”

4. In our considered view, the explanation rendered by the Appellant for condonation of a long delay of 990 days is wholly insufficient. It is a settled principle of condonation of delay that the Appellant must make out a

sufficient cause to seek condonation and mere routine or administrative reasons cannot constitute a sufficient cause. The reasons put forth in the application that the legal department was busy in scrutinizing cases and, therefore, it took time to grant approval and take further steps for filing the appeal, do not appeal to this Court. The impugned judgment was delivered by the learned Single Judge on 12.03.2018. The application reveals that approval to file the appeal was given on 29.04.2019 which was after a period of over one year and no explanation other than stating that the dispatch registers were being traced, has been given to explain the delay. The ground set up with respect to pandemic COVID-19, in our view, does not inure to the benefit of the Appellant, for the simple reason that there was enough time available to the Appellant for filing the appeal even if it was presumed in favour of the Appellant that the approval was given on 29.04.2019.

5. Law with regard to condonation of delay is no longer *res integra*. We may allude to the following judicial pronouncements in this regard:-

- (i) ***Postmaster General v. Living Media India Ltd.*, (2012) 3 SCC 563**, Para 27-30;
- (ii) ***Basawaraj v. Land Acquisition Officer*, (2013) 14 SCC 81**, Para 12-15;
- (iii) ***Amalendu Kumar Bera & Ors v. State of West Bengal*, (2013) 4 SCC 52**, Para 10;
- (iv) ***University of Delhi v. Union of India*, (2020) 13 SCC 745**, Para 31;
- (v) ***Union of India & Ors v. Nripen Sarma*, (2013) 4 SCC 57**, Para 6.

6. Impugned judgment and order is dated 12.03.2018 and the present Letters Patent Appeal has been preferred on 17.12.2020. Thus, there is an inordinate delay on the part of the Appellant, which has not been

satisfactorily explained and thus, the delay cannot be condoned and the application deserves to be dismissed.

7. Insofar as the merits of the case are concerned, it is urged by learned counsel for the Appellant that there is a limitation period of one year for applying for alternate plot and there was a delay of 5 days on the part of the original Petitioner in preferring an application for the alternate plot.

8. Since we have declined to condone the delay of 990 days in preferring the appeal, we do not intend to enter into the merits of the dispute. However, it is relevant to note that a Division Bench of this Court in LPA No.305/2018 decided on 25.05.2018, upheld the order of the learned Single Judge wherein Government of NCT of Delhi was directed to consider the application of the Petitioner in the writ petition, which was preferred 4 days after the limitation period prescribed in the Notification. The order passed by the Division Bench reads as under:-

“Government of NCT of Delhi is aggrieved by learned Single Judge’s orders in writ proceedings; learned Single Judge has directed the consideration of the respondent’s application for allotment of alternative plot. The main ground urged is that the application was made beyond the stipulated period. Learned Single Judge in the course of hearing assessed the facts and noted that the request/application for allotment was made barely four days after the date or period prescribed in the notification. Furthermore, the notification was not statutory. Obviously the period could not be considered un-extendable in these circumstances.

There is no merit in the appeal; accordingly it is dismissed.”

9. In the present case, while the Respondent herein had taken a categorical stand before the learned Single Judge that an application for

alternate plot was preferred on 19.09.2005 which was within one year of limitation period from the date of receipt of compensation on 23.09.2004 and there was no denial to the said fact, however, even if this Court was to assume in favour of the Appellant that no such application was made, there would at best be a delay of 5 days in submitting the application. Looking to the decision rendered by the Division Bench in LPA No.305/2018, which judgment has been implemented by the Appellant, as informed to the Court, during the course of hearing, we see no reason to take a different view and thus, no infirmity can be found with the impugned judgment. Learned Single Judge has directed the Appellant to reconsider the application of the Respondent herein, with an observation that the same shall not be rejected on the ground of delay. No error can be found in the direction, particularly, on account of the fact that the Appellant has accepted and implemented the judgment of the Division Bench in LPA No.305/2018.

10. Application seeking condonation of delay is accordingly dismissed.

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11. As the delay is not condoned, the appeal along with pending application is dismissed.

CHIEF JUSTICE

JYOTI SINGH, J

DECEMBER 04, 2021/ab