

IN THE HIGH COURT OF ORISSA AT CUTTACK

LAA NO.134 of 2010

*L.A. Collector, Balasore &
Another*

.....

Appellants

Mr. G. Rout, ASC.

Vs.

Ajamil Giri & Ors.

.....

Respondents

CORAM:

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

21.09.2022

Misc. Case No.20 of 2012 & LAA No.134 of 2010

Order No.
05.

This matter is taken up through hybrid mode.

2. Since service of Notice on limitation matter issued to Respondent Nos.1 to 4 by Registered Post with A.D. returned un-served with an endorsement "Long Absent", the Appellant was directed to take fresh steps for issuance of Notice on Respondent Nos.1 to 4 in their present correct address by Registered Post with A.D. But till date no steps have been taken in terms of the said Order dated 02.09.2015.
3. That apart, as per the stamp reporting, there is a delay of 2 years and 24 days in filing the present Appeal.
4. This Appeal has been preferred against the judgment dated 24.05.2008, passed by the learned Civil Judge (Senior Division), Balasore in L.A.M.C. No.272 of 2003 on 19.10.10. As per the Office Note, there is a delay of 2 years 24 days in filing the present Appeal.
5. Though the Misc. Case has been filed under Section-5 of the Limitation Act for condonation of delay, as is revealed from the pleadings made in the Misc. Case, the said delay of 2 years and 24 days has not been properly explained and the same is not convincing.

6. The apex Court in the case of *Office of the Chief Post Master General & Ors. Vrs. Living Media India Ltd. & Anr.* reported in (2012) 3 SCC 563 observed as under:

“12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties

with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

7. Also, in view of the recent judgment/order of this Court in the case of *State of Odisha Vrs. Surama Manjari Das* (W.P.(C) No.15763 of 2021 dismissed on 16.07.2021), which has been passed relying on the decision of the Supreme Court in the case of *The State of Madhya Pradesh Vrs. Bherulal*, reported in *2020 SCC Online SC 849*, this Appeal deserves to be dismissed on the ground of delay and laches.

8. Accordingly, the Misc. Case for condoning of delay as well as the Appeal preferred under Section 54 of the Land Acquisition Act, 1894, stand dismissed.

(S.K. MISHRA)
JUDGE

Banita