

CM-2584-LPA-2021 in/and
LPA No.1113 of 2021

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CM-2584-LPA-2021 in/and
LPA No.1113 of 2021
Date of decision : 20.09.2022

Joginder Singh

.....Appellant

VERSUS

Union of India and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Arjun Dev, Advocate for
Mr. Vivek Thakur, Advocate, for the appellant.

Mr. Arun Gosain, Senior Standing Counsel
for Union of India.

Mr. Vikas Mohan Gupta, Ld. Addl. Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in CM-2854-LPA-2021 is for condonation of delay of 132 days in filing the appeal which has been preferred against the judgment passed by the learned Single Judge on 17.08.2019 in a writ petition seeking direction to appoint the District and Sessions Judge, Bathina, as Arbitrator for adjudicating the claim of the appellant.

2. The reasons for not approaching the Court within the stipulated period of limitation i.e. 30 days is that the applicant – appellant was not aware about the passing of the judgment dated 17.08.2019 in the writ

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petition and he came to know about it only when he enquired about the matter from his counsel and collected his file. Certified copy of the said judgment applied, prepared and delivered on the dates as have been mentioned. It is then the counsel for the applicant – appellant came to know that certain documents were not complete leading to the filing of application for inspection of the file. On applying, necessary documents were supplied and delivered to him. Thereafter, the appeal was prepared and filed leading to the delay in filing the same as mentioned above.

3. Learned counsel for the applicant – appellant submits that the delay in filing the appeal is neither intentional nor deliberate, rather the same has occurred because of the reasons recorded above. He, therefore, prays that the delay in filing the appeal may be condoned.

4. On the other hand, learned counsel for Union of India submits that no genuine reason is forthcoming for the delay in filing the appeal. The applicant – appellant has been sleeping over the matter for a long time and suddenly woke-up to challenge the well-reasoned judgment passed by the learned Single Judge, which cannot be allowed. He, thus, prays for dismissal of this application for condonation of delay as well as the main appeals.

5. We have heard the learned counsel for the parties and with their assistance have gone through the application as well as the impugned judgment passed by the learned Single Judge.

6. The explanation which has been given in the application is totally unjustified. Applicant – appellant should have been vigilant enough and enquired about the fate of his case from time to time. It appears that the

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applicant – appellant, after filing the writ petition, has simply forgotten about the same and had not taken interest in his own case which he had filed. There being no justifiable explanation for the inordinate delay of more than 132 days in filing the appeal, no ground is made out for accepting this application for condonation of delay. The application, thus, deserves dismissal and as a consequence thereof, the appeal being time barred needs to be dismissed as such.

7. In any case, on merits also, it requires to be mentioned here that the issue involved in this appeal was the subject matter in LPA No.2076 of 2019, titled as 'Gurcharan Singh and another VS. Union of India and others' and LPA No.2069 of 2019, titled as 'Balwant Singh (since deceased) through LRs and others Vs. Union of India and others', which came up for hearing before a Division Bench of this Court on 06.01.2020, when the said appeals were dismissed by upholding the order passed by the learned Single Judge making an observation that the learned Single Judge has rightly dismissed the writ petitions on the ground of delay and laches as the appellants after passing of the award dated 06.03.1975 under the Registration and Acquisition of Immovable Property Act, 1952, did not file any application seeking appointment of an arbitrator and did so only after a period of 29 years by issuing a notice in the year 2004. Relevant part of the said judgment reads as follows:-

“We also find that enumeration of dates and facts by the learned Single Judge is admitted and not disputed. Admittedly the appellants approached the respondents-authorities for appointment of an arbitrator after delay of

29 years. As they did not choose to approach this Court along with the other claimant/land owner, who had filed a writ petition for appointment of an arbitrator in the year 1983, they are not entitled to relief on the ground of parity due to delay on their part in view of the law laid down by the Supreme Court in **New Delhi Municipal Council vs. Pan Singh and others, (2007) 9 SCC 278**, and **S.S. Balu and another vs. State of Kerala and other, (2009) 2 SCC 479**. Even otherwise, the provisions of the Act of 1952 and the Rules framed thereunder provide that a person aggrieved by the quantum of compensation is required to approach the authority within 15 days from the date of offer of compensation for appointment of an arbitrator, which has admittedly not been done by the appellants.

In view of the aforesaid admitted and undisputed facts, we do not find any illegality or perversity in the impugned order passed by the learned Single Judge. The learned Single Judge has rightly dismissed the writ petition on the ground of delay and laches.”

8. We have also gone through the judgment passed by the Division Bench of this Court as also the pleadings of this case with the assistance of the counsel for the appellants but find no reason for taking a different view from the one which has been taken by the Division Bench of this Court referred to above.

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9. It needs to be referred here that the review application preferred by the appellants in the above mentioned LPAs also stands dismissed by the Division Bench vide order dated 13.02.2020.

10. In the light of the above, the present appeal is dismissed on the ground of delay and laches as also on merits following the judgment of the Division Bench in LPA Nos.2069 and 2076 of 2019 referred to above.

(AUGUSTINE GEORGE MASIH)
JUDGE

20.09.2022

Harish

(ALOK JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No