

RFA-724-2022 (O&M)
and other connected case 1

**314-1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1.RFA-724-2022 (O&M)

Rampal and others

....Appellants

Versus

State of Haryana and others ..Respondents

2.RFA-723-2022 (O&M)

Jagdish and others

....Appellants

Versus

State of Haryana and others ..Respondents

Date of decision: 28.10.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhir Hooda, Advocate for the appellants

Mr. Shivendra Swaroop, AAG, Haryana

Mr. Pritam S Saini, Advocate for respondent no.3 and 4

ANIL KSHETARPAL, J (Oral)

1. By this order, two Regular First Appeals i.e RFA-724 and 723 of 2022 shall stand disposed of.

2. These two connected appeals have come up for hearing. In both the appeals, separate applications for condoning the delay of 1356 days (in RFA-724-2022) and 635 days (in RFA-723-2022) in filing the appeals have been filed. Admittedly, these appeals have been filed after the decision of the various connected cases vide judgment dated

15.11.2021 rendered in RFA-3000-2016 titled as '**Jai Singh vs. State of Haryana and others**'. Learned counsel representing the appellants admits that on the date when these appeals were filed, no connected appeal was pending.

3. The ground for condonation of delay in both the applications is identical. Para 2 and 3 of the application (CM-1677-CI-2022 in RFA-724-2022) are extracted as under:-

“2. That the appellants are simplicitor and rustic villagers and do not know much about the court procedure especially the law of the limitation. They are belonging to a poor farmer community. Therefore, they have no sufficient funds to meet with the expenses of filing the appeal and payment of counsel fees. However, they have received some amount of compensation and could arrange the amount.

3. That after making the arrangement of the amount and collecting the copy of the award and other documents from their counsel at lower court, they have approached the present counsel on 17.07.2016 for filing the appeal in this Hon'ble High Court against the impugned award dated 30.3.2016. However, it was informed by their counsel that the appeal have already become barred by limitation. But on the instructions of the appellants, the counsel for the appellants prepared the appeal on their behalf and the appeal is being filed in this Hon'ble High Court. In this way, a delay of 1356 days has been occurred in filing appeal.”

4. It is not in dispute that the appellants were represented by a counsel before the Reference Court. Various co-villagers who were identically situated filed the appeals in the year 2016. In such circumstances, the appellants cannot seek condonation of delay on the ground that they did not know about the law of limitation. Ignorance of law is not a ground for condoning the delay. Moreover, in the States of

Punjab and Haryana fixed court fee of Rs.100/- is payable in the appeal filed for enhancement of the market value in land acquisition cases. The appellants have been held entitled to the enhanced compensation by the Reference Court. In fact, they have already received compensation on two different occasions, one of those amounts was paid under the award passed by the Land Acquisition Collector whereas the second instalment was paid when the Reference Court decided the matter in the year 2016.

5. The issue of condonation of delay in the appeals filed after the decision of the connected appeals has been examined and decided in RFA-673-2021, after discussing various judgments of the Supreme Court, it has been 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 exfacie 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 relief what it considers a*

distress resulting from its operation”.

Keeping in view the aforesaid discussion, it is evident that the appellants have failed to furnish a sufficient explanation to condone the colossal delay of 1356 days as well as 635 days. In both the appeals, the reasons seeking the condonation of delay are identical. Hence, with regards to the aforesaid discussion, dismissed.

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

28.10.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)
JUDGE**