

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

RFA-2583-2019 (O&M)

Date of decision: 13.09.2022

Daya Ram

....Petitioner

Versus

Haryana State through Collector, Gurgaon and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.R.Yadav, Advocate for the petitioner

Mr. Shivendra Swaroop, AAG, Haryana

Mr. P.S.Saini, Advocate for respondent no.3

ANIL KSHETARPAL, J (Oral)

The prayer in CM-6150-CII-2019 is to condone the delay of 5145 days in filing the appeal. The land belonging to the appellant was acquired alongwith the land of large number of co-villagers. 93 reference petitions were decided by the Reference Court on 05.02.2003. Various other landowners filed appeals before the High Court. However, the appellant did not prefer any appeal. The matter was finally decided by the Supreme Court in the year 2010 whereas the present appeal has been filed on 22.05.2017.

While filing the application, the appellant in para 2 of the application has asserted as under:-

“2. That the applicant-appellant were under the impression that their appeal has been filed in the Hon'ble High Court but actually the appeal could not be filed though the related documents were given to the counsel for the applicant-appellant in the Ld. Trial Court. Being villagers the applicant-appellant was not aware about the non-filing of the

appeal. Recently, the applicant-appellant enquired from their counsel in the trial court and who got applied for getting certified copy of the award. Thus, the delay in filing the appeal is unintentional and beyond the control of the applicant-appellant.”

On reading of the assertions, it is evident that the appellant has failed to furnish any plausible explanation to condone the delay of more than 14 years in filing this appeal. The Supreme Court finally decided the appeals filed by the various other neighbouring owners in the year 2010. There is no justifiable explanation as to how the appellant was not aware of the said decision. The appellant claims that he gave the relevant documents to the counsel in the trial court, however, neither the name of such counsel has been disclosed nor the appellant has disclosed as to what steps were taken by him when the Supreme Court finally decided the matter in the year 2010. The appellant does not claim that any connected appeal from the same acquisition is pending. Undoubtedly, in such matters the court ordinarily takes a liberal view, however, it is the responsibility of the appellant to furnish a proper explanation. Section 5 of the Limitation Act, 1963 is applicable to such appeals, where the prescribed time is extended on furnishing of sufficient reasons for not filing the appeal. The appellant is required to furnish sufficient explanation for the condonation of delay. The Limitation Act, 1963 is a statute of repose.

Keeping in view the aforesaid facts, this Court is left with no other choice but for to decline the prayer for the condonation of such a colossal delay. Consequently, the appeal shall also stand dismissed.

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

13.09.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE