

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
209**

**CM-3076-LPA-2015 &
LPA-1440-2015**

Date of decision: 20.09.2022

RAWAT SINGH

.....APPELLANT

Versus

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

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

Present: Mr. R.S.Mamli, Advocate,
for the applicant-appellant.

Ms. Rajni Gupta, Addl. A.G. Haryana,
for the State.

Mr. Kanwaljit Singh, Sr. Advocate,
with Ms. Shazia K. Singh, Advocate,
for respondents No. 5 and 6.

AUGUSTINE GEORGE MASIH, J.

CM-3076-LPA-2015

Prayer in this application is for condonation of delay of 626 days in filing the appeal.

It has been stated in the application that after filing of the appeal, the applicant-appellant remained with his son Ravinder Singh at Jhooth Bara at Jaipur (Rajasthan). His father was staying in Village Dhingsara, his native place, who died in the year 1980 and thereafter, the applicant-appellant was pursuing his case. He did not come to know with regard to the decision dated 23.07.2013 passed by the learned Single Judge in CWP No. 15483 of 1990 preferred by him. The applicant-appellant came

to know about the decision in March, 2015 and being about 74 years of age, most of the time keeping not good health, he contacted his counsel and thereafter, preferred LPA No. 1347 of 2015, which led to a delay of 593 days. The said appeal was withdrawn on 14.09.2015 with liberty to file a fresh one on the same cause of action.

It has been contended by the counsel for the applicant-appellant that the applicant-appellant has a good case on merits as he has got less land although he is entitled to more land than what has been granted to him. No benefit would be gained out of the delay by the applicant-appellant and there is neither any mala-fide intention nor a deliberate delay at the hands of the appellant but the same has occurred because of his old age, bad health and having shifted his residence.

Reply to the application of condonation of delay has been filed, wherein the averments made in the application have been denied. It has been submitted that there is a huge, inordinate and unexplained delay of 626 days in filing the appeal which cannot be overlooked. There are no details whatsoever mentioned in the application giving the dates, months or years with regard to his movement from the State of Haryana to Rajasthan and back again to his native place in Haryana. No source of information with regard to the decision having been rendered by the learned Single Judge has been disclosed nor has it been mentioned as to when he contacted his counsel to enquire about the case. Day to day delay is required to be explained which is missing. The explanation, which has been submitted, is neither plausible nor substantiated on facts which would disclose sufficient cause entitling him to the benefit of condonation of delay in filing the appeal. Prayer has, thus, been made for dismissal of the application and as a

consequence thereof, dismissal of the appeal on the grounds of delay and latches.

We have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the pleadings.

For seeking the benefit of condonation of delay, as mandated under Section 5 of the Indian Limitation Act, 1963, not only should there be an explanation based upon sufficient cause, which is substantiated on facts, but it should neither be intentional nor deliberate showing promptness and immediate action on the part of the person seeking such condonation of delay. If there is a huge delay, the details, with regard to how that time had consumed, need to be explained detailing therein the dates, which includes the month and the year as also the steps taken for approaching the competent authority/Court for redressal, need to be not only highlighted but mentioned. Existence of sufficient cause depends upon the facts of each case and no hard and fast rules can be applied. The totality of the facts and circumstances of the case would lead to the decision process either to accept the same or reject the same. Where there is no such explanation, the Court has no option but to reject the application for condonation of delay.

In the present case, the scanty facts, which have been given and sought to be highlighted in the application, reflect upon the casual approach on the part of the applicant-appellant. No credible and trustworthy details have been given specifying the dates and events. There are no sufficient reasons mentioned in the application which would lead to the Court coming to a conclusion that the delay could be condoned. A person, who is laced with lethargy, inaction and appeared to be negligent in his approach in

pursuing his personal remedy, should not expect a discretion to be exercised by the Court in his favour. Even equity cannot be exercised for the benefit of such type of person.

In the present case, there being an inordinate and unexplained delay of 626 days in filing the appeal, we do not find any sufficient grounds for accepting the present application and, therefore, dismiss the same.

LPA-1440-2015

The appeal is dismissed as barred by limitation.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

20.09.2022
PJ

**(ALOK JAIN)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>