

**CM No. 20118-CII of 2019 in/
and RA-CR-157 of 2019 in
FAO No. 5622 of 2016 (O&M)**

[1]

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

**CM No. 20118-CII of 2019 in/and
RA-CR-157 of 2019 in
FAO No. 5622 of 2016 (O&M)
Date of decision: 28th February, 2023**

Tarsem Raj and others

Applicants

Versus

Government of India and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sherry K. Singla and Mr. Satbir Rathore, Advocates
for the applicants.

Mr. R. S. Madaan, Advocate for the respondents.

AVNEESH JHINGAN, J (Oral):

CM No. 20118-CII of 2019

1. This application is filed for condoning the delay of 1019 days in filing the review application in FAO No. 5622 of 2016.
2. The brief facts are that notification under Section 3-A of the National Highways Act, 1956 was issued on 24.12.2004 and land of the

applicants was acquired. The applicants were aggrieved of the compensation determined, arbitration proceedings initiated at the instance of the applicant culminated in award dated 30.7.2010. The objections filed by National Highway Authority of India under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') were allowed on 28.11.2011 and the matter was remanded back. The order under Section 34 of the Act was challenged before this court in FAO No. 5622 of 2016. Vide order dated 8.11.2016, the appeal was disposed of in terms of order passed in FAO No. 3537 of 2014. On 21.1.2019, the applicant filed an application for modification of the order passed in FAO No. 5622 of 2016 which was dismissed on 19.8.2019 as not maintainable. Thereafter, on 23.9.2019, review application was filed, accompanied by an application for condonation of delay.

3. Learned counsel for the applicant submits that similarly situated land owners were awarded higher compensation and the award was upheld by this court.

4. Learned counsel for the non-applicants submits that the review is not maintainable as the provisions of Code of Civil Procedure are not applicable. He further submits that there is no explanation for the delay of 1019 days in filing review application. The contention is that judgment in FAO No. 5622 of 2016 had attained finality. It is argued that FAO No. 5223 of 2014 was decided on 10.2.2016 i.e. earlier to decision in FAO No. 5622 of 2016. The contention is that the remedy of review cannot be resorted on the basis of decision which was available on the date when the appeal of the applicant was decided.

5. Heard learned counsel for the parties and perused the pleadings.

6. Before proceeding further, it would be relevant to cite following decisions:

6.1 The Supreme Court in ***Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC, 459*** held as under :-

“8. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in [Section 5](#) of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate.”

6.2 Further the Supreme Court in ***Pundlik Jalam Patil (D) by LRs. Versus Exe. Eng. Jalgaon Medium Project and another, 2008 (17) SCC 448***, has held as under:

“..... It was its duty to prefer appeals before the Court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.'”

6.3 The Supreme Court in case of ***Tribhuvanshankar Vs. Amrutlal, 2014 (1) RCR (Civil) 206***, has laid down that the fundamental

policy behind the limitation is that if a person does not pursue his remedy within the stipulated time-frame, the right to sue gets extinguished.

6.4 In case of ***Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534***, the Supreme Court has held that the delay in filing the appeal or revision cannot and shall not be mechanically considered and in the absence of 'sufficient cause' delay shall not be condoned. In case of serious negligence, the delay should not be condoned.

6.5 The Supreme Court in ***State of Nagaland v. Lipok Ao, 2012 (3) RCR (Civil) 73: 2012 (2) Recent Apex Judgments (RAJ) 482: 2012 (5) SCC 157***, in paragraph 24 has held as under:

"24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

[Emphasis supplied]

6.6 The Supreme Court in case ***Basawaraj and another v. Special Land Acquisition Officer 2017(3) PLR 299***, while dealing with the scope of "sufficient cause" has laid down as under:

".....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."

6.7 In ***P.K. Ramachandran v. State of Kerala & Anr., 1997(4) R.C.R.(Civil) 242 : AIR 1998 SC 2276***, the Supreme Court while

considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under :-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds."

7. There is no explanation explaining the delay for the period 8.11.2016 to 21.1.2019. A bald statement is made that the applicant gained knowledge that similarly situated land owners were awarded higher compensation in FAO No. 5223 of 2014. There is no pleading as to how the applicant gained knowledge of the said fact. It is not disputed that decision relied upon for filing review application was prior to the decision of the appeal of the applicant.

8. In the present case, there is no sufficient cause pleaded or argued for condoning the delay. Consequently, the application for condonation of delay is dismissed.

9. Resultantly, the review application is dismissed as time barred.

[AVNEESH JHINGAN]
JUDGE

28th February, 2023

mk

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No