



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1861 of 2014 (O&M)

Date of decision: 05.11.2024

Municipal Corporation, Ludhiana

.....Appellant

Versus

Balkar Singh and Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. HPS Ghuman, Advocate for the appellant.
Mr. Amit Jain, Advocate for respondent Nos.1 to 5.
Ms. Arundhati Kulshreshtha, AAG, Punjab.

G.S. SANDHAWALIA, J

Mr. Ghuman has placed on record a receipt dated 16.05.2023 for a sum of Rs.10,000/- deposited with the Punjab & Haryana High Court Advocate Bar Association, Benevolent Fund Chandigarh. It is submitted that the same could not be deposited on the last occasion. He submits that the better affidavit cannot be filed in support of the application seeking condonation of delay.

2. Present appeal has been preferred against the order dated 13.08.2013 passed by learned Single Judge in Civil Writ Petition No.1408 of 1988. The appeal is accompanied by an application bearing CM No.3940-LPA-2014, seeking condonation of 332 days delay in filing the appeal. Delay as such is not being satisfactorily explained since the date of filing of the appeal is 16.10.2014 and the

only ground raised is that the delay was unintentional and considerable time was



taken by the appellant in following the procedure for getting the requisite sanction.

In spite of number of opportunities having been granted and orders having been passed to file the affidavit, no affidavit has been filed as noticed in the earlier part of the order. In such circumstances, we are of the considered opinion that sufficient cause has not been explained at all.

3. The Apex Court has time and again held that the same yardstick is to be applied for deciding the applications for condonation of delay filed by private individuals and the State, however, certain amount of latitude is impermissible in the latter case. Reliance can be placed upon the judgment of the Apex Court reported as **Pundlik Jalam Patil (D) by LRs vs. Exe. Eng, Jalgaon Medium Project & Anr, 2008 (17) SCC 448** wherein the Apex Court set aside the judgment of the High Court whereby delay of 1724 days had been condoned on the ground that no sufficient cause was made out and therefore, it was concluded that there was no occasion as such to condone the delay. Similarly, in another judgment reported as **Oriental Aroma Chemical Industries Ltd vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC 459**, the Apex Court held that the law of limitation is founded on public policy and there should be no resort to dilatory tactics. The delay for more than four years had been condoned by High Court and keeping in view the law laid down whether plausible and tangible explanation was tendered for condoning the delay for more than four years, the judgment of High Court was set aside. In another judgment reported as **Office of the Chief Post Master General & Ors vs. Living Media India Ltd & Anr, 2012 (3) SCC 563**, the Apex Court held that there has to be reasonable acceptable explanation and in the absence of the same, it was not possible to go into the merits as such. Paragraphs 12 & 13 of this judgment read as under:

“1 to 11. xxx

xxxx



12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the government.

13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of



various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”.

4. In the present case, it is noticed that the learned Single Judge has allowed the writ petition and set aside the order of eviction passed under the Public Premises and Land (Eviction and Rent Recovery) Act, 1973 while recording that the writ petitioner as such was in occupation of the land before the purchase by the Municipal Corporation on 14.09.1976. In such circumstances, it was held that the provisions of the Act do not apply and the learned Single Judge as such has also left the remedy open to the present appellant by holding that the writ petitioners shall not be evicted from the land in question, which is shown to have been mentioned in records except in due course of law.
5. It is, thus, apparent that the interest of the appellant has not been scuttled in any manner and the remedy as such to seek the possession of the land remains before the court of competent jurisdiction if it so wishes/chooses to do so.
6. Resultantly, we do not find any ground as such to condone the delay.
7. Accordingly, the present appeal is dismissed on ground of being time barred and also on merits.
8. Pending application(s), if any, stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

November 05, 2024
manoj

(DEEPAK MANCHANDA)
JUDGE

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