



## IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

118

RSA-2531-2024 (O&amp;M)

Date of Decision : 22.10.2024

Union of India through its Secretary, Ministry  
of Defence and Another

....Appellants

VERSUS

The State of Punjab through Collector Gurdaspur  
and Another

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. S.K. Sharma, Advocate for the appellants.

**ALKA SARIN, J. (Oral)**

1. Present appeal has been preferred by the Union of India. The suit was filed by the plaintiff-appellants herein for declaration to the effect that the plaintiff-appellants are owners of the land measuring 01 Kanal 02 Marlas out of the land measuring 02 Kanals 05 Marlas comprised in Khewat No.1021 Min Charda, Khewat Nos.735 and 649, Khatauni Nos.717, 718 situated in village Faizpur, Tehsil Batala, District Gurdaspur and for possession of the land measuring 01 Kanal 02 Marlas after removing the Malba.

2. The Trial Court vide judgment and decree dated 19.05.2012 dismissed the suit. Aggrieved by the same, an appeal was preferred which appeal was also dismissed vide judgment and decree dated 19.09.2015.

3. Present appeal has been filed after a delay of almost 09 years.

The reason given in the application (CM-10498-C-2024) for condonation of

delay is that certified copies of the judgment and decree passed by the First Appellate Court were received by the Department with legal opinion on 02.12.2015 and after preparing the case the same was sent to Principal Director, Defence Estate, Chandigarh on 28.12.2015 for being submitted to Legal Advisor, Defence Estate who referred the matter to the Director General, Defence Estate, New Delhi for legal opinion of Legal Advisor on 22.01.2016. It has further been averred in the application that the Director General asked for comprehensive proposal on 21.03.2017. Thereafter, certain additional documents were required which were made available on 08.05.2023. There is no explanation forthcoming as to what happened between 2017 and 2023. The application is totally bereft of any explanation as to why the matter did not proceed from 2017 to 2023. Learned counsel for the appellant would contend that due to procedural delays, the file did not move. The said explanation is totally unacceptable.

4. Hon'ble Supreme Court in case of **Pathapati Subba Reddy (Died) by LRs & Ors. vs. The Special Deputy Collector (LA) [2024(3) RCR (Civil) 135]** has held as under :

*“ 25. This Court in the same breath in the same very decision vide paragraph 15 went on to observe as under:*

*“ 15. The law on the issue can be summarised 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 bona fide 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. (emphasis supplied)”*

26. *On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*

(iii) *The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*

(iv) *In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*

(v) *Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*

(vi) *Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*

(vii) *Merits of the case are not required to be considered in condoning the delay; and*

(viii) *Delay condonation application has to be decided on the parameters laid down for condoning the delay and*  
*17 | 22 condoning the delay for the reason that the*

*conditions have been imposed, tantamounts to disregarding the statutory provision.”*

5. In view of the fact that there is no cogent explanation for the inordinate delay in filing the appeal, the delay cannot be condoned. The application for condonation of delay and the present appeal are accordingly dismissed. Pending applications, if any, also stand disposed off.

22.10.2024  
jk

**( ALKA SARIN )**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO