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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 09.12.2024

+ LPA 553/2023, CM APPL. 35610/2023-Stay, CM APPL. 35611/2023-Delay 166 days in filing appeal.

**DELHI STATE INDUSTRIAL AND INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD.**

.....Appellant

Through: Ms. Firdouse Qutb Wani, Mr. Md.
Zaryab Jamal Rizvi and Ms. Subia
Naaz, Advocates

versus

AGHUM BAHL & ANR.

.....Respondents

Through: Mr. Rajiv Aneja, Advocate for
Respondent no.1
Mr. Anuj Aggarwal, ASC, GNCTD
with Mr. Vikrant Chawla, Mr. Yash
Upadhyay and Mr. Siddhant Dutt,
Advocates for Respondent no.2

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

SAURABH BANERJEE, J (ORAL)

1. By way of the present appeal under Clause X of the Letters Patent Act, the appellant seeks to assail the impugned judgment dated 01.11.2022 whereby the learned Single Judge of this Court has allowed the writ petition instituted by the respondent no.1/ petitioner by holding that he was entitled to an alternate industrial plot earmarked for him vide allotment letter dated 07.05.2004 issued by the appellant.

2. Prior to venturing into the merits involved, we like to note that the



present appeal is accompanied by an application under *Section 5* of the Limitation Act, 1963 (Act) wherein the appellant is seeking condonation of delay of 166 days in filing the present Letters Patent Appeal.

3. As per the appellant, the said delay of 166 days was on account of departmental and administrative action involved. It is the appellant's case that even though the day the impugned judgment was uploaded on the website of this Court, it was sent to the concerned division the very same day. As per appellant, the concerned division examined the same and sent it to the higher authorities for approval with regards to challenging the same, which exercise took some time whereafter the file was sent to the legal counsel of the DSIIDC. It was after obtaining the opinion of the counsel that the present appeal was then prepared and forwarded to the concerned division (DSIIDC) and was eventually filed by, which time a delay of 166 days had been occasioned.

4. *Per-contra*, learned counsel for the respondent no.1 opposes the long gap of which the appellant seeks condonation of delay by urging that the reasons furnished by the appellant cannot be treated as sufficient cause. He, therefore, prays that the appeal along with the application be dismissed at the outset itself.

5. We have heard the learned counsel for the parties and perused the documents on record as well.

6. In our considered view, the application seeking condonation of delay has been filed in a routine, casual manner and is completely bereft of any material particulars required for the appellant to seek condonation of 166 days of inordinate delay in filing the present appeal. The appellant has to both plead and show substantive reasons which prevented it from filing the



present appeal within the allotted time frame to seek the benefit of *Section 5* of the Act. The appellant in our view was required to show ‘*sufficient cause*’ for such an inordinate delay, especially when there is a substantive lapse of time on the part of the appellant. Merely because the appellant is an organisation of the government, cannot in itself be a ground to give/ extend any special benefit. The law and guidelines qua applicability of *Section 5* of the Act is the same for one and other all across the country. There cannot be and should not be any differentiation and/ or difference between the common man and the government.

7. The Hon’ble Supreme Court in ***Basawaraj vs. Land Acquisition Officer***, (2013) 14 SCC 81, while dealing with the expression ‘sufficient cause’ as provided under *Section 5* of the Act held as under:-

“11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide Madanlal v. Shyamlal [(2002) 1 SCC 535 : AIR 2002 SC 100] and Ram Nath Sao v. Gobardhan Sao [(2002) 3 SCC 195 : AIR 2002 SC 1201] .) 12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute. 13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266: “605. Policy of the Limitation Acts.—The courts have



expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.” An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) 7 SCC 510] , Rajender Singh v. Santa Singh [(1973) 2 SCC 705 : AIR 1973 SC 2537] and Pundlik Jalam Patil v. Jalgaon Medium Project [(2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907] .)

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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.”

8. Reliance is also placed upon the dictum of the Hon’be Supreme Court in **Ramlal vs. Rewa Coalfields.**, 1961 SCC OnLine SC 39, wherein it has held as under:-

“7. In construing Section 5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree-holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree-holder by lapse of time should not be light-heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for



excusing delay is shown discretion is given to the court to condone delay and admit the appeal. This discretion has been deliberately conferred on the court in order that judicial power and discretion in that behalf should be exercised to advance substantial justice. As has been observed by the Madras High Court in Krishna v. Chathappan [(1890) ILR 13 Mad 269] "Section 5 gives the court a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood; the words „sufficient cause" receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fide is imputable to the appellant."

9. Reliance is further placed upon the dictum of the Hon'ble Supreme Court in ***Mool Chandra vs Union of India***, 2024 SCC OnLine SC 1878, wherein it has been held as under:-

"20. ... No litigant stands to benefit in approaching the courts belatedly. It is not the length of delay that would be required to be considered while examining the plea for condonation of delay, it is the cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of "sufficient cause", irrespective of the length of delay same deserves to be condoned. However, if the cause shown is insufficient, irrespective of the period of delay, same would not be condoned."

10. Interestingly, this Court has also, recently reiterating the same stand of the Hon'ble Supreme Court since long in ***Oriental Insurance Co. Ltd. vs Sharp Mint Ltd.*** 2024:DHC:8833-DB also in ***Union of India & Ors. vs Capt Munish Chaudhary*** 2024:DHC:9218-DB recently held that any party like the appellant herein cannot be allowed to avail the benefit of condonation casually, especially wherein such party like the appellant fails to show any 'sufficient cause' for delay in filing the appeal before any Court.

11. Lastly, *de hors* the above, in view of the aforesaid factual position, even while delving into the merits of the present appeal, we find it hard to interfere with the impugned judgment passed by the learned Single Judge. This is primarily since the appellant has had itself issued the allotment letter with respect to the plot of land to the respondent no.1 in 2004, after which, it



had accepted the full payment of more than Rs.9 lakhs for the same, only to retract therefrom and cancel the allotment after a lapse of more than six years i.e. 2011.

12. In our opinion, there could have been no plausible reason for the appellant to *belatedly* act in such a manner, more so, whence there was no fault on the part of the respondent no.1.

13. Accordingly, we see no reason to interfere with the impugned judgement passed by the learned Single Judge, the present appeal alongwith applications is dismissed in *liminie*.

(SAURABH BANERJEE)
JUDGE

(REKHA PALLI)
JUDGE

DECEMBER 9, 2024/So