

17.09.2025
SL No.20
Court No.1
(gc/sg)

**FAT 377 of 2025
CAN 1 of 2025
CAN 2 of 2025**

**State of West Bengal
Vs.
Smt. Dipti Sur & Ors.**

Mr. Rabindra Narayan Datta,
Mr. Arkoday Mukherjee
...for the Appellant/State.

Re: CAN 1 of 2025

1. There is a delay of 2677 days in preferring the appeal. The inordinate delay in preferring the appeal has not been sufficiently explained in the application for condonation of delay. The valuable right has accrued in favour of the award-holder/referring claimant. She cannot be deprived of the benefits of the award dated 30th January, 2016 passed in connection with the Land Acquisition case arising out of a reference under Section 18 of the Land Acquisition Act I of 1894.
2. The referring claimant is the respondent in the appeal. The lands of the referring claimant were acquired by the L.A. Collector, Burdwan in connection with L.A. Case No.15(IV)/1995-1996, vide Notification dated 25.11.1997 for construction of Housing Scheme at Mouza-Alisha. The admitted position is that the

acquired lands were classified as 'Sali' and the said lands were of Mouza – Alisha. The L.A. Collector awarded a sum of Rs.3,69,900/- as compensation for the acquisition of the plots of land nos.24, 25, 26 and 27 of Mouza – Alisha, J.L. No.77 measuring 41 Cent, 38 Cent, 36 Cent and 35 Cent respectively.

3. The referring claimant was dissatisfied with the said compensation amount and has made a reference under Section 18 of the L.A. Act before the learned Additional District Judge, 2nd Court, Burdwan being L.A. Case No.74/110 of 2007/2006. The Executive Officer, Zilla Parisad of Burdwan and the Executive Officer, B.D.A., Burdwan did not contest the reference. The requiring bodies were made parties but they did not contest. The learned Additional District Judge on consideration of the materials on record and relying upon comparable units enhanced the compensation amount along with statutory interest. The said judgment was pronounced on 30th January, 2016.
4. The memorandum of appeal was filed on 13th August, 2025 with a prayer for condonation of delay. The Additional Stamp Reporter has reported that there is a delay of 2677 days in preferring the appeal. In the application for

condonation of delay, the following explanations were offered for not being able to prefer the appeal within the period of limitation:-

“7. That the concerned officer of the appellant during the relevant period, when the award was passed in respect of the land in question as acquired under Act 1 of 1894 and subsequent to passing the impugned judgement and decree, the said officials have been transferred time to time and due to change of the officials of the appellant, who used to deal with the above Land Acquisition matters sought for legal opinion of the Learned Government Pleader, the then Burdwan thereafter the appellant send his subordinate officials to deal with the aforesaid cases to the Department of Legal Remembrancer, Government of West Bengal with a request for engagement of Learned State Advocate in filing appeal arising out of the L.A. Case being No.74/110 of 2007/2006.

8. That during the relevent time, District Bardhaman was divided in two parts, i.e. Purba Bardhaman and Paschim Bardhaman by the Gazette Notification vide 80/AR/O/2R-3/12 dated 24/03/2017 with effect from 07th April, 2017 as such in the meantime, office was heavily engaged in its administrative function to pursue before Department of Legal Remembrancer, Government of West

Bengal with a request for engagement of Learned State Advocate in filing appeal.

This office sent status report to Purba Bardhaman Zilla 1738/LA/Law Parishad vide Cell/RC/65/136/08/17 dated 19.07.2017 and then sent a request to the Purba Bardhaman Zilla Parishad seeking suitable action toward mitigating the four Execution Cases in view of previously discussed amicable settlements in earlier three cases. That the District Magistrate, Purba Bardhaman requested the Land & Land Reforms Department to send approval after vetting of the decretal estimate prepared by this Office. The District Magistrate, Purba Bardhaman, also requested again to The Land & Land Reforms Department, West Bengal to engage Learned Advocate for propose of filing appeal but all are in vain in the meantime in 2018 due to Panchayet Election and in 2019 for Lok Sabha Election, the said officials have been transferred time to time and due to change of the officials of the appellant, who used to deal with the above Land Acquisition matters as such the office was heavily engaged in its administrative function to pursue the said elections.

9. That I further say entire globe was trembling with Pandemic Covid-19, throwing the life of the people completely out of gear and turned our world up side down. The damage done by the pandemic to mental health has already attracted

well-deserved attention. In such a situation, people were living through an age of untold sufferings and as such no action could be initiated against the said Judgement and decree. The period from 15/03/2020 to 28/02/2022 should be excluded due to such Pandemic Situation Covid 19 as per order Hon'ble Apex Court in a Miscellaneous Application No.21 of 2022, Miscellaneous Application No.665 of 2021, Suo Moto Writ Petition (C) No.3 of 2020 with Miscellaneous Application No.29 of 2022.

10. That in the meantime, office was heavily engaged in its administrative function to pursue the last Panchayet Election which the election procedure was notified on 09/06/2023 and its counting of vote ended on 11/07/2023 and similarly the date of Parliament Election was declared on 16/03/2024 and its date of counting of vote was on 04/06/2024.

10. That in the meantime, office was heavily engaged in its administrative function to pursue the last Panchayet Election which the election procedure was notified on 09/06/2023 and its counting of vote ended on 11/07/2023 and similarly the date of Parliament Election was declared on 16/03/2024 and its date of counting of vote was on 04/06/2024.

11. That in the meantime three of the District Magistrate, Purba Bardhaman,

Special Land Acquisition Officer, Purba Bardhaman, got transferred and the case file remained unmoved due to their transference.

The copy of the said documents are being enclosed and marked as Annexure-"P/1" collectively.

12. That, the appellant/ petitioner again sent a proposal for engagement of State Advocate to the Ld. Legal Remembrance on 14/05/2025 and sent a letter to Ld. Legal Remembrancer for engagement of Rabindra Narayan Dutta, Ld. State Advocate and approval received on 05/06/2025 from Ld. Legal Remembrancer.

13. The appellant/petitioner through its officer, requested the Learned State Advocate for filing appeal expeditiously as the impugned judgment and decree passed long back, when the Learned State Advocate told the said concerned officer to bring the certified copy of the impugned judgment and decree in respect of the reference case and further bring all the related papers and documents in connection with the above reference case including petition under Section 18 of Land Acquisition Act, 1894, copy of the award, written objection statement of claim, evidences of the parties and exhibited documents etc."

5. Even if we assume that there is a bifurcation of the district Burdwan, there is no acceptable

explanation offered for not taking steps prior to the Gazette Notification dated 24th March, 2017 or after the pandemic was over. There is a complete inaction on the part of the appellant to take any steps for filing the appeal as pushing the file from one department to another and the Panchayat Election in 2018 or the Lok Sabha Election in 2019 could be accepted as an explanation for not filing the appeal within the period of limitation or within a reasonable time. It is also important to note that the bifurcation of the district Burdwan would not affect the filing of the said appeal as the lands in question acquired are all within the jurisdiction of Purba Burdwan where all original records are available. The bifurcation would not make any difference insofar as the office record is concerned.

6. The learned Counsel for the appellant/State has submitted that a liberal approach is required to be taken considering the fact that the government decisions are proverbially slow, encumbered and involves considerable degree of procedural red tape in the process of their making.
7. It is submitted that the award suffers from various defects and errors and is contrary to

law. The referring claimant admittedly is deprived of the enjoyment of the property in question since the date of Notification dated 25th November, 1997 and thereafter, enjoying the fruits of the of the modified award passed by the learned Additional District Judge on 30th January, 2016. By reason of a long passage of time, valuable right has accrued in favour of the claimant.

8. It is well settled that a government cannot be a beneficiary of its own wrong and cannot claim to be a favoured litigant.
9. We are conscious of the fact that section 5 of the Limitation Act, 1963 has clearly stated that Court may admit any appeal or applications other than an application under any of the provisions of Order XXI of the Code of Civil Procedure (CPC) after the prescribed period, “if the appellant satisfies the court that he had sufficient cause for not preferring the appeal or making the applications within such period. (emphasis supplied).
10. The Section casts a duty upon the court to satisfy itself with the cause shown for the delay. The cause for the delay needs to be “sufficient” and not a mere cause. The court cannot exercise such power mechanically

disregarding insufficient or unsatisfactory explanation. It implies discretion which needs to be applied judiciously. The discretion is conditional upon satisfaction of the Court with the explanation offered which should be reasonable and acceptable. The award holders cannot be taken for a ride. They cannot suffer due to inaction, inertness and extreme casualness of the State and its machinery. The pain and anxiety of a land looser and deprivation of his legitimate dues due to proverbial lackadaisical approach should not be countenance. In a fairly recent decision of the Hon'ble Supreme Court in ***Brahampal v. National Insurance Company***, reported at **2021 (6) SCC 512** the apex court has cautioned regarding the necessity of distinguishing cases where delay is of few days, as against cases where the delay is inordinate as it might cause serious prejudice to the valuable and substantial rights accrued to the other party in the meantime. The Apex Court in explaining the term "sufficient cause" has stated:

"16. This Court in the case of Perumon Bhagvathy Devaswom, Perinadu

Village v. Bhargavi Amma (Dead) by LRs.,: (2008) 8 SCC 321, observed that:

13....The words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words "sufficient cause" in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the Appellant. (emphasis supplied)

17. The aforesaid view was reiterated in Balwant Singh (Dead) v. Jagdish Singh, (2010) 8 SCC 685, wherein this Court held that:

25. We may state that even if the term "sufficient cause" has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of "reasonableness" as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied

appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly. (emphasis supplied)

11. The Court in the above-mentioned cases, highlighted upon the importance introducing the concept of "reasonableness" while giving the Clause "sufficient cause" a liberal interpretation. In furtherance of the same, this Court has cautioned regarding the necessity of distinguishing cases where delay is of few days, as against the cases where the delay is inordinate as it might accrue to the prejudice of the rights of the other party. In such cases, where there exists inordinate delay and the same is attributable to the party's inaction and

negligence, the Courts have to take a strict approach so as to protect the substantial rights of the parties.

12. The aforesaid view was taken by this Court in the case of *Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai*, (2012) 5 SCC 157 wherein the Court held that:

23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power Under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

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)

13. Undoubtedly, the statute has granted the Courts with discretionary powers to condone

the delay, however at the same time it also places an obligation upon the party to justify that he was prevented from abiding by the same due to the existence of "sufficient cause". Although there exists no strait jacket formula for the Courts to condone delay, but the Courts must not only take into consideration the entire facts and circumstances of case but also the conduct of the parties. The concept of reasonableness dictates that, the Courts even while taking a liberal approach must weigh in the rights and obligations of both the parties. When a right has accrued in favour of one party due to gross negligence and lackadaisical attitude of the other, this Court shall refrain from exercising the aforesaid discretionary relief."

14. In ***University of Delhi v. Union of India & Ors.*** reported in **2020(13) SCC 745** the Hon'ble Supreme Court upheld the order passed by Division Bench of the High Court dismissing the LPA on the ground of delay of 916 days, with the following observations:

"23. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for

condonation of delay would not depend on the status of the party namely the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even-handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation. In the case of Katiji (Supra) the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800 per cent.

24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the Appellant is public body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That

apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the Respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified.”

15. The lethargy seems to have crept in the administration as they believe that justice oriented liberal view approach would steer them away irrespective of the quality of explanation offered for the delay since it is a state or a government body. They take things for granted. It is as if grace is the rule and denial would be an exception. A time has come for them to realise that they stand on the same footing and they are accountable for their conduct. Persons responsible for the delayed filing are let off even without caution. This indifferent, casual and lethargic attitude of the state or government bodies have been seriously deprecated in ***Postmaster General v. Living***

Media (India) Ltd. [2012 (3) SCC 563]

wherein it is held as hereunder:-

“28. 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 bona fides, 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.

29. 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 bona fide 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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

16. The culpable negligence on the part of the appellant to conduct the matter cannot be condoned. In our view, justice should be evenly balanced. The negligent conduct of the State is manifest at every stage of the proceeding. An extremely casual approach is discernible from the explanations offered by the appellant for delayed filing of the appeal. Any liberal approach would result in injustice to the award holders, who have lost their lands almost 28 years back and by reason of the pendency of the proceeding they are deprived of their dues.
17. Under such circumstances, we dismiss the application for condonation of delay.
18. In view of the aforesaid order dismissing the application for condonation of delay, the appeal and the stay petition are also dismissed.
19. However, there shall be no order as to costs.
20. The appellant is directed to deposit the entire decretal dues with the Executing Court along with all statutory interests within eight weeks from date.
21. The Executing Court is directed to disburse the said amount to the award-holder immediately thereafter on proper identification.

22. The department is directed to communicate this order to the claimant by registered speed post with acknowledgement due within one week from date.
23. A copy of this order shall also be communicated to the learned Additional District Judge, 2nd Court, Burdwan for information and doing the needful.
24. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[Soumen Sen, C.J. (Acting)]

(Apurba Sinha Ray, J.)