



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

109

**RA-RS-52-C of 2018(O&M) IN
RSA No.2651 of 1987
Date of decision:25.03.2026**

SONI BAI

...APPLICANT

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. Vishal Pundir, Advocate,
Mr. Anmol Rattan S. Dhillon, Advocate and
Ms. Atika Thakur, Advocate
for non applicant-appellant.

Mr. Sharad Aggarwal, Addl. A.G., Haryana and
Mr. Abhinav Mahant, Asst. A.G., Haryana
for applicants-respondents.

Mr. P.R. Yadav, Advocate
for intervenor in CM-10790-C-2024.

PARMOD GOYAL, J. (ORAL)

Applicants-respondents have filed present review application seeking review of judgment dated 05.03.2010 whereby the regular second appeal preferred by non-applicant-appellant was allowed.

2. Present review application was filed on 09.05.2018 after a delay of 2958 days along with application (**CM-7653-C-2018**) for condonation of delay in filing review application.

3. It is worth noting that non-applicant-appellant Soni Bai had filed a suit for possession claiming to be owner of 08 Biswas of land in

Khasra No.2853 as per Jamabandi for the year 1974-1975 in the area of Narnaul. Non-applicant-appellant Soni Bai claimed allottee of said land from Custodial Department in lieu of land left in Pakistan. The said suit for possession was filed by non-applicant-appellant Soni Bai on 24.09.1979. The suit for possession was duly decreed by learned Court of First Instance vide judgment and decree dated 20.03.1984 passed by learned Sub Judge First Class, Narnaul. Against judgment and decree dated 20.03.1984, defendants-respondents-State duly filed Civil Appeal No.72 of 1984 instituted on 26.09.1984 which was allowed by learned First Appellate Court vide judgment and decree dated 24.04.1987. Against order of First Appellate Court, non-applicant-appellant Soni Bai had preferred RSA No.2651 of 1987 which was decided by this Court vide judgment dated 05.03.2010. This Court had concluded as under:-

“12. Undisputedly, property was not acquired. It ought to have been acquired by the defendants before constructing Hospital. Article 300-A of the Constitution of India is akin to fundamental right. None can be deprived from his property otherwise than in accordance with law.

13. In my humble opinion the peculiar facts and circumstances of the case it would be justified to direct the defendant to pay compensation to plaintiff for the disputed land after calculating the same as per market value fixed by the Collector in the year 1975 for the purpose of stamp duty to residential area. Defendants shall also pay interest thereon at the rate of 9% per annum from 1.4.1975 to till the time of actual payment. Entire payment is to be made within six months from today, failing which plaintiff would be entitled for the relief for possession.”

4. Applicants-State had preferred CM No. 1211-C of 2015 in RSA 2651 of 1987 seeking extension of time for payment. The said civil miscellaneous application, however, was dismissed by this Court vide its order dated 21.02.2015. Against dismissal of application for extension of time, the State had preferred SLP No. 15868 of 2015. The said SLP was also dismissed vide order dated 19.02.2016. Thereafter, present application has been preferred on 09.05.2018 for review of order dated 05.03.2010 passed by this Court after delay of 2958 days.

5. The only reason justifying delay on the part of applicants-State is that during pendency of execution petition for taking possession, it has come to the notice of State that present proceedings were result of fraud and fabrication and when same came to the knowledge of applicants-State, it preferred present review application. It is also not in dispute that applicants-State had also filed an FIR bearing No.215 dated 11.05.2016 under Sections 120B, 406, 420, 467, 468 and 471 of Indian Penal Code, 1860 registered at Police Station City Narnaul against successor in interest of decree holder, namely Prem Nath Gupta and Inderjeet Singh Gupta who were seeking execution of judgment dated 05.03.2010 being successor in interest of original plaintiff-Soni Bai.

6. Learned counsel for State has argued that the delay in filing application for review is on account of fact that applicants-State was not aware about the fraud being played by Prem Nath Gupta and Inderjeet Gupta and the fraud had come to the knowledge of the applicants-State only subsequent to dismissal of its application for extension of time as earlier applicant-State was seeking extension of time to make payment in pursuance

of judgment dated 05.03.2010 in a *bona fide* manner. It is further asserted that it was only when applicants-State came to know about fraud being played upon it, it had preferred present review application and prays that delay in filing present review application be condoned.

7. Learned counsel for intervenor has supported that case of applicant-State and argued that over suit land hospital is existing and in case possession is ordered to be delivered to decree-holder(s), it will be unjust and against public interest. It is asserted that fraud was played by non-applicant-appellant in connivance with officers of State and for said connivance general public cannot be punished by taking land under the use and possession of hospital and same will be prejudicial to the interest of public in general.

8. Learned counsel for non-applicant-appellant on other hand argued that a new case is being set up by the applicants-State after failing to secure favourable order only to justify its arrogance and to avoid compliance of judgment dated 05.03.2010 passed by this Court. It is asserted that even if it is taken that applicants-State had come to know about the alleged fraud after lodging of FIR against non-applicant-appellant to arm twist, the applicants-State had not taken any steps till 09.05.2018 when present review petition was filed.

9. In present case, admittedly suit for possession was preferred by Soni Bai by claiming to be owner of suit property. The said suit was duly contested by applicants-State by asserting adverse possession. Applicants-State had admitted the ownership of non-applicant-appellant and had failed to prove adverse possession after availing due opportunity to lead evidence

and suit filed in the year 1979 was decreed by judgment and decree dated 20.03.1984. For next 26 years, applicants-State kept on avoiding the case claiming the suit property on the basis of adverse possession. The said claim of applicants-State was not accepted by this Court and judgment dated 05.03.2010 attained finality, as against said judgment dated 05.03.2010, no special leave petition was preferred by the applicants-State before the Hon'ble Supreme Court. It is not the case of applicants-State that it was not aware about the passing of judgment dated 05.03.2010. Rather, applicants-State has been duly appearing before Executing Court and had sought extension of time to make the payment in terms of judgment dated 05.03.2010 which was not accepted by the Executing Court as well as by this Court when CM No.1211-C of 2015 in RSA No.2651 of 1987 filed by applicants-State was dismissed by this Court vide order dated 21.02.2015 as well as by Hon'ble Supreme Court in SLP No.15868 of 2015 preferred by applicants-State, which was dismissed on 19.02.2016. After failing to get extension of time, it was only in 2016, when applicant-State changed its stance and started raising claim of fraud and fabrication and accordingly had lodged an FIR No.215 dated 11.05.2016 under Sections 120B, 406, 420, 467, 468 and 471 of Indian Penal Code, 1860 registered at Police Station City Narnaul against both the brothers namely Inder Jeet Gupta and Prem Nath Gupta and the deed writer.

10. However, present review application was not preferred promptly by applicants-State even after it came to know about alleged fraud in May 2016. Review application was filed only on 09.05.2018 after lapse of about two years from date of knowledge of alleged fraud. Perusal of present

application shows that no reasons at all are given by applicants-State to justify delay of two years in filing review application after knowledge of alleged fraud to the applicants-State. No doubt, Courts while considering application for condonation of delay filed by State has to apply liberal approach and differentiate between an individual litigant and State. In case of State generally long rope is extended in favor of State while condoning the delay. This long rope however, cannot be extended unless some reasons are disclosed by State.

11. In present case, no justification has been given to justify the delay of at least last two years from 2016 to 2018.

12. From the facts and circumstances as noted above, present seems to be a case of bureaucratic arrogance where instead of making payment, officers of the State have taken a stand that they would not adhere to the judgment passed by this Court and when they failed in their endeavor despite due opportunity, present review application with alleged claim of fraud has been preferred. It is very strange that despite pendency of present matter since the year 1979, the alleged fraud is being raised only in the year 2018 when applicants-State was left with no other option but to surrender the possession. There is a total non-application of mind on the part of officers of the State. Officers of the State could have saved the property by complying with order dated 05.03.2010 by paying compensation within six months. However, said course was not adopted, rather approach of State is totally unjustified showing that the present review application is only an effort to avoid consequences of judgment dated 05.03.2010, which cannot be allowed.

13. The dispute in present case pertains to 08 biswas of land which is around 540 sq. yds. The hospital mentioned above by learned counsel for intervenor is over much area than the land which is under dispute. Learned counsel for intervenor may be right that some inconvenience would be caused when land in possession of hospital would be ordered to be delivered to decree-holder(s), however, merely on the basis of inconvenience non-compliance of judgment dated 05.03.2010 cannot be justified. The Courts have to keep balance between rights of individuals and public interest. Mere public interest by itself is not sufficient to reject justified individual rights. It is worth noticing that plaintiff/successor in interest are litigating with the State since 1979 for more than 40 years. State has throughout claimed suit property by way of adverse possession. The adverse possession by State could not be established by evidence and learned Court of First Instance as well as this Court has rejected the claim of State and decided the matter in favour of plaintiff/non-applicant. Instead of complying with the judgment dated 05.03.2010, State kept on dilly dallying and after passing of 6 years when it failed to get extension of time upto Hon'ble Supreme Court, it has come up with altogether in new case seeking to dislodge judgment dated 05.03.2010 which has since attained finality. Therefore, the plea raised by intervenor that public would be put to inconvenience cannot be accepted. The situation has arisen on account of fault on the part of State and for that plaintiff/appellant-non-applicant cannot be penalised. State can still acquire property in accordance with law.

14. In view of above, present application for condonation of delay of 2958 days in filing the review application is dismissed being without any

any just and sufficient cause and present review application is also accordingly dismissed being time-barred.

15. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

25.03.2026
Sunil Chander

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No