

Basawaraj & Anr vs Spl.Laq Officer on 22 August, 2013

Equivalent citations: AIR 2014 SUPREME COURT 746, 2013 (14) SCC 81, 2013 AIR SCW 6510, 2014 (1) AJR 141, 2014 (1) AIR KANT HCR 128, 2013 (2) WLC(SC)CVL 438, 2013 (10) SCALE 391, (2013) 5 ALLMR 934 (SC), (2014) 5 CAL HN 34, (2014) 2 CURCC 61, (2014) 2 ICC 526, (2013) 2 CLR 606 (SC), (2013) 4 JCR 200 (SC), 2013 (5) ALLMR 934, 2013 (2) CLR 606, (2013) 130 ALLINDCAS 261 (SC), AIR 2014 SC (CIVIL) 511, (2013) 100 ALL LR 697, (2013) 121 REVDEC 276, (2014) 1 ANDHLD 33, (2014) 1 KANT LJ 34, (2013) 4 KCCR 3430, (2013) 6 ALL WC 5829, (2014) 1 CIVILCOURTC 351, (2013) 3 GUJ LH 163, (2013) 5 MAD LW 219, (2014) 1 RECCIVR 603

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Bench: S.A. Bobde, B.S. Chauhan

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6974 of 2013

Basawaraj & Anr.
...Appellants

Versus

The Spl. Land Acquisition Officer

...Respondent

WITH

CIVIL APPEAL NO. 6975 of 2013

Basawaraj & Ors.
...Appellants

Versus

The Spl. Land Acquisition Officer

...Respondent

J U D G M E N T

Dr. B. S. CHAUHAN, J.

1. These appeals have been preferred against the common impugned judgment and order dated 10.6.2011 passed by the High Court of Karnataka at Gulbarga in MFA Nos.10765 and 10766 of 2007 by which the appeals of the appellants under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') have been dismissed on the ground of limitation.

2. For the purpose of convenience, the facts of C.A. No. 6974 of 2013 are taken, which are as under:

A. The land of the appellants in Survey No.417/2 admeasuring 4 acres and Survey No.418 admeasuring 23 acres, 1 guntha; and 5 acres, 23 gunthas of phut kharab situated in the revenue estate of village Mahagaon, Tehsil and Distt. Gulbarga was acquired in pursuance of notification dated 23.4.1994 under Section 4(1) of the Act.

B. After completing the formalities as required under the Act, an award under Section 11 of the Act was made on 23.10.1997 fixing the market value of the land at the rate of Rs.11,500/- per acre and Rs.100/- per acre in respect of phut kharab land.

C. The appellants preferred references under Section 18(1) of the Act for enhancement of compensation and the reference court vide award dated 28.2.2002 fixed the market value of the land from Rs.31,500/- to Rs.70,000/- per acre depending upon the quality and geographical situation of the land. For phut kharab land, assessment was made at the rate of Rs.1,000/- per acre.

D. Aggrieved, the appellants filed appeals under Section 54 of the Act before the High Court on 16.8.2007 with applications for condonation of delay. The applications for condonation of delay stood rejected as the High Court did not find any sufficient cause to condone the delay.

Hence, these appeals.

3. Shri Basava Prabhu S. Patil, learned senior counsel appearing on behalf of the appellants, has submitted that the High Court committed an error in not condoning the delay as there was sufficient cause for not approaching the High Court within time. One of the appellants was suffering from ailments and it was in itself a good ground for condonation of delay. The High Court ought to have kept in view that in a large number of identical matters, huge delays had been condoned on the

condition that the claimant would not be entitled for interest of the delay period, thus, the High Court itself has given discriminatory and contradictory verdicts which itself is a good ground for interference by this Court. The appeals deserve to be allowed.

4. Per contra, Shri Naveen R. Nath, learned counsel appearing on behalf of the respondent, has opposed the appeal contending that the delay can be condoned keeping in mind the provisions contained in Section 5 of the Limitation Act, 1963 (hereinafter referred to as the 'Act 1963'). The order of condonation of delay is to be based on sound legal parameters laid down by this Court. No condition can be imposed while condoning the delay. The question whether a claimant should be awarded interest or not would arise at the time of final hearing of the appeal and such condition cannot be imposed for admitting a time barred appeal. If the High Court has committed such a grave error in other cases, that cannot be a ground for interference by this Court as it is a settled legal proposition that doctrine of equality does not apply for perpetuating an illegal and erroneous order. The appeals before the High Court were hopelessly time barred as the same had been preferred after about 5-1/2 years and no satisfactory explanation could be furnished in the applications for condonation of delay for not approaching the court in time. Thus, the appeals lack merit and are liable to be dismissed.

5. We have considered the rival submissions made by the learned counsel for the parties and perused the record.

6. Admittedly, there was a delay of 5-1/2 years in filing the said appeals under Section 54 of the Act before the High Court. The only explanation offered for approaching the court at such a belated stage has been that one of the appellants had taken ill.

7. Shri Patil, learned senior counsel, has taken us through a large number of judgments of the High Court wherein delay had been condoned without considering the most relevant factor i.e. "sufficient cause" only on the condition that applicants would be deprived of interest for the delay period. These kinds of judgments cannot be approved. The High Court while passing such unwarranted and uncalled for orders, failed to appreciate that it was deciding the appeals under the Act and not a writ petition where this kind of order in exceptional circumstances perhaps could be justified.

8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/ benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a Judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Even otherwise, Article 14 cannot be stretched too

far for otherwise it would make functioning of administration impossible. (Vide: Chandigarh Administration & Anr. v. Jagjit Singh & Anr., AIR 1995 SC 705, M/s. Anand Button Ltd. v. State of Haryana & Ors., AIR 2005 SC 565; K.K. Bhalla v. State of M.P. & Ors., AIR 2006 SC 898; and Fuljit Kaur v. State of Punjab, AIR 2010 SC 1937).

9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 SC 1336; Lala Matadin v. A. Narayanan, AIR 1970 SC 1953; Parimal v. Veena @ Bharti AIR 2011 SC 1150; and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai AIR 2012 SC 1629.)

10. In Arjun Singh v. Mohindra Kumar, AIR 1964 SC 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

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, AIR 2002 SC 100; and Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors., 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. 24, p. 181:

"330. Policy of 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. State Bank of India Staff Assn. (2005) 7 SCC 510; Rajendar Singh & Ors. v. Santa Singh & Ors., AIR 1973 SC 2537; and Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448).

14. In P. Ramachandra Rao v. State of Karnataka, AIR 2002 SC 1856, this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in A. R. Antulay v. R.S. Nayak, AIR 1992 SC 1701.

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 bonafide 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.

16. In view of above, no interference is required with impugned judgment and order of the High Court. The appeals lack merit and are, accordingly, dismissed.

.....J.
B. S. CHAUHAN)

(DR.

.....J.

(S.A. BOBDE)

NEWDELHI;

August 22, 2013
