

Supreme Court of India

Brijesh Kumar & Ors vs State Of Haryana & Ors on 24 March, 1947

Author:J.

Bench: B.S. Chauhan, J. Chelameswar

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NOS.6609-6613 OF 2014

Brijesh Kumar & Ors.

... Petitioners

Versus

State of Haryana & Ors.

...Respondents

O R D E R

1. These petitions have been filed challenging the judgment and order dated 22.11.2013, passed by the High Court of Punjab & Haryana at Chandigarh dismissing the Civil Misc. Applications in RFA No.5793 of 2012 for condonation of delay of more than 10 years in filing the appeal under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act').

2. The land of the petitioners alongwith the lands of others admeasuring 134 acres, 5 kanals and 10 marlas situate in revenue estate of village Manakpur, Hadbast No.386, Tehsil Jagadhri, District Yamuna Nagar stood notified under Section 4 of the Act on 8.9.1993. In respect of the same, the award was made by the Land Acquisition Collector on 8.10.1997 assessing the market value of the land of the petitioners @ Rs.1,75,000/- per acre.

3. Aggrieved, the petitioners and other persons interested filed references under Section 18 of the Act for enhancement of compensation and the Reference Court made the award on 7.9.2001 assessing the market value of the land @ Rs.1,85,000/- per acre and they were also given other statutory benefits.

4. Aggrieved, some of the persons interested filed appeals before the High Court, however, petitioners had chosen not to file appeal at the initial stage but filed the same in the year 2012 after a lapse of 10 years 2 months and 29 days. The High Court refused to condone the delay in spite of the fact that other persons who had preferred the appeals in time had been given a higher compensation.

Hence, these petitions.

5. Shri Shish Pal Laler, learned counsel appearing for the petitioners has submitted that it was a fit case where the delay ought to have been condoned and the High Court has committed an error in

not entertaining the appeal on merit.

6. The High Court had given cogent and valid reasons and relied upon large number of judgments of this Court while rejecting the application for condonation of delay including Mewa Ram (Deceased by L.Rs) & Ors. v. State of Haryana, AIR 1987 SC 45; State of Nagaland v. Lipok AO & Ors., AIR 2005 SC 2191; and D. Gopinathan Pillai v. State of Kerala & Anr., AIR 2007 SC 2624.

7. The issues of limitation, delay and laches as well as condonation of such delay are being examined and explained every day by the Courts.

The law of limitation is enshrined in the legal maxim “Interest Reipublicae Ut Sit Finis Litium” (it is for the general welfare that a period be put to litigation). Rules of Limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

8. The Privy Council in General Fire and Life Assurance Corporation Ltd. v. Janmahomed Abdul Rahim, AIR 1941 PC 6, relied upon the writings of Mr. Mitra in Tagore Law Lectures 1932 wherein it has been said that “a law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on applicable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognised by law.”

9. In P.K. Ramachandran v. State of Kerala & Anr., AIR 1998 SC 2276, the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under:— “Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.”

10. While considering a similar issue, this court in Esha Bhattacharjee v. Raghunathpur Nafar Academy & Ors. (2013) 12 SCC 649 laid down various principles inter alia:

“ x x x
v) Lack of bona fides imputable to a party seeking

condonation of delay is a significant and relevant fact

vi) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play x x x

ix) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x x x xvii) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.” (See also: *Basawaraj v. Land Acquisition Officer* (2013) 14 SCC 81)

11. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.

12. It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.

13. In *State of Karnataka & Ors. v. S.M. Kotrayya & Ors.*, (1996) 6 SCC 267, this Court rejected the contention that a petition should be considered ignoring the delay and laches on the ground that he filed the petition just after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. The Court observed that such a plea is wholly unjustified and cannot furnish any ground for ignoring delay and laches.

14. Same view has been reiterated by this Court in *Jagdish Lal & Ors. v. State of Haryana & Ors.*, AIR 1997 SC 2366, observing as under:– “Suffice it to state that appellants kept sleeping over their rights for long and elected to wake-up when they had the impetus from *Vir Pal Chauhan* and *Ajit Singh’s* ratios...Therefore desperate attempts of the appellants to re-do the seniority, held by them in various cadre.... are not amenable to the judicial review at this belated stage. The High Court, therefore, has rightly dismissed the writ petition on the ground of delay as well.”

15. In *M/s. Rup Diamonds & Ors. v. Union of India & Ors.*, AIR 1989 SC 674, this Court considered a case where petitioner wanted to get the relief on the basis of the judgment of this Court wherein a particular law had been declared ultra vires. The Court rejected the petition on the ground of delay and laches observing as under:– “There is one more ground which basically sets the present case apart. Petitioners are re-agitating claims which they have not pursued for several years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else’s case came to be decided.”

16. In the instant case, after considering the facts and circumstances and the reasons for inordinate delay of 10 years 2 months and 29 days, the High Court did not find sufficient grounds to condone the delay.

17. In view of the facts of the case and the above-cited judgments, we do not find any fault with the impugned judgment. The petitions lack merit and are accordingly dismissed.

.....J.

(DR. B.S. CHAUHAN)J.

(J. CHELAMESWAR) New Delhi March 24, 2014.
