

IN THE COURT OF VANI GOPAL SHARMA
DISTRICT JUDGE, PANIPAT



CNR No. : HRPP01-005078-2024
CIS No. : CA-155-2024
Civil Appeal No. : 73 of 2024
Date of Institution : 02.07.2024
Date of Decision : 23.07.2026

Haryana Urban Development Authority now (Haryana Shehri Vikas Pradhikaran) through its Estate Officer, Sector-18, Panipat.

...Appellant-defendant No.2.

Versus

Viresh Mohan son of Shri Inder Mohan son of Shri Hans Raj, Resident of # 408-R, Model Town, Panipat.

...Respondent-plaintiff.

Appeal against the judgment and decree dated 12.10.2009 passed by the court of Shri J.B.Gupta, the then learned Civil Judge (Senior Division), Panipat, in civil suit bearing No. 661 of 2008 titled as 'Viresh Mohan versus Haryana Urban Development Authority and anr.', by virtue of which the Trial Court has decreed the suit filed by the respondent-/plaintiff, with no order as to costs.

Present when Argued:

Shri Sushil Gaur, Advocate, counsel for the appellant.
Shri Kartar Singh, Advocate, counsel for respondent.

JUDGMENT:

Present appeal has been filed by the defendant No.2-appellant assailing the judgment and decree dated 12.10.2009 passed by the court of

(Vani Gopal Sharma)
District Judge, Panipat.

Shri J.B.Gupta, the then learned Civil Judge (Senior Division), Panipat in civil suit bearing CIS No.661 of 2008 titled as 'Viresh Mohan versus Haryana Urban Development Authority and anr.', by virtue of which the Trial Court has decreed the suit filed by the respondent-plaintiff, with no order as to costs.

2. Notice of the Appeal was given to the respondent.
3. Trial Court Record has also been summoned and perused. The parties in this judgment have been referred to as the plaintiff and the defendant as per their status before the Trial Court.

BRIEF FACTS AS PER THE PLAINT:

4. The suit was filed by plaintiff on the averments that Shri Rajiv Kumar son of Shri Leela Krishan was owner in possession of 12 Biswas of land comprised in Khasra No.720 (7 Bigha -19 Biswas) situated in revenue area of Taraf Insar, Panipat (here-in-after referred to as 'the disputed property'). A portion of this Khasra number was acquired, but this area of Shri Rajiv Kumar was not acquired as it was a built-up one. Said Shri Rajiv Kumar had sold this plot measuring 12 Biswas to the plaintiff vide sale deed bearing vasika No.8123 dated 09.02.2000, registered with Sub Registrar, Panipat and actual possession was handed over to the plaintiff at the time of execution and registration of the sale deed. A Tatima (supplementary) sale deed was also got made by the plaintiff in his favour from the said Shri Rajiv Kumar bearing vasika No.8835 dated 15.03.2000, registered at Sub Registrar, Panipat. Thereafter, the plaintiff had made renovations in the

disputed property and at present, a showroom of exide batteries under the name and style of M/s V.J. Power is being carried out in this premises by the plaintiff. In this manner, the defendants have got no right, title or interest over the disputed property of the plaintiff. As some persons started claiming that the disputed property was part of the acquired land by HUDA, therefore, on the application of the plaintiff, the defendant No.2 vide its letter No.1822 dated 19.02.2001 had specifically intimated that the disputed property was purchased by the plaintiff and the same was not part of the acquired lands. Similarly, a demarcation was also requested to the defendant No.2 and vide its letter No.4293 dated 15.03.2022, it was intimated to the plaintiff that the disputed property purchased by the plaintiff was not part of the acquired lands.

4.1 It has been further averred that on 02.09.2003, defendant No.2 through its Estate Officer came at the premises of the plaintiff and threatened that the building of the plaintiff should be demolished as it vests in the defendants being part of the acquired lands. As a matter of fact, the disputed property does not form part of the acquired land as specifically made clear in letter bearing No.1822 dated 19.02.2001 that the disputed property does not form part of mutation No.10548 vide which defendants have become owners of the acquired lands. As such, the defendants have got no right, title or jurisdiction to interfere in the peaceful working of the plaintiff over the disputed property. Even otherwise, no notice in respect of demolishing the property of the plaintiff was ever served upon the plaintiff

and without giving any opportunity of show cause explanation or opportunity of being heard, all acts of the defendants are without jurisdiction and void abinitio. Hence, the present suit has been filed by the plaintiff seeking decree for declaration thereby declaring the plaintiff to be exclusive owner in possession of 12 Biswas of land comprising in Khasra No.720 situated in Taraf Insar, Panipat and that this property does not vest in the defendants in any manner whatsoever and further seeking decree for permanent injunction thereby restraining the defendants, its employees, servants, agents or successors from interfering in the peaceful possession of the plaintiff over this property in any manner whatsoever and further restraining the defendants from demolishing the construction raised over this property.

5. Upon notice, **written statement** was filed by **defendants** raising preliminary objections on the grounds of jurisdiction; maintainability; concealment of true and material facts; locus standi; cause of action and estoppel etc.

5.1 On merits, it was submitted that the disputed property falls within Khasra No.720 of revenue estate Taraf Insar, Panipat and the said Khasra number has been acquired by the defendants vide award No.4 for the year 1992-1993 announced on 07.05.1992 by the Land Acquisition Collector Urban Estate, Panchkula for the development and utilization of land as residential, commercial, industrial and institutional area for Sector 6, 7 and 8, Panipat under the Haryana Urban Development Authority, act, 1977. The

defendants have deposited compensation with the Land Acquisition Collector and possession of acquired land including the suit land i.e. Khasra No.720 of revenue estate Taraf Insar, Panipat was handed over by the Land Acquisition Collector to the defendants and since then, the defendants have become true owners of the suit property and the possession of the plaintiff or his predecessor-in-interest has become unauthorized. An unauthorized occupant or encroacher has no right to seek injunction against the true owner.

5.2 It has been further submitted that the disputed property is part and parcel of Sector-6, HUDA, Panipat and the same has been reserved for development of green belt and the plaintiff had got no right to disturb the green belt and hamper the development work which is to be carried out by the defendants. Moreover, the notification under Section 4 was published on 10.05.1989/10.06.1989 and thereafter, the acquisition proceedings were started, whereas the plaintiff has claimed to purchase the disputed property from the previous owners during the year 1990, without any verification and prior permission of the defendants. After denying the remaining averments, a prayer was made for dismissal of the suit with costs.

6. On the basis of the pleadings of the parties, the following issues were framed by the Court of the then learned Civil Judge (Junior Division), Panipat, vide order dated 05.02.2004:-

1. Whether the plaintiff has purchased different lands as mentioned and described in para No.2 of the plaint and whether plaintiff was also handed over the actual

possession of the aforementioned land by his vendors ?
OPP.

- 2. Whether the defendants have got no right, title or interest over the property of plaintiff as mentioned and described in para No.1 of the plaint? OPP
- 3. In case issue No.1 & 2 are decided in favour of plaintiff then whether plaintiff is also entitled to injunction and declaration as prayed for? OPP
- 4. Whether the civil court has got no jurisdiction to try and entertain the present suit? OPD
- 5. Whether the defendants are true owner of the suit property as alleged? OPD
- 6. Whether the suit filed by the plaintiff is not maintainable in the present form? OPD
- 7. Whether the plaintiff has not approached the court with clean hands? OPD
- 8. Relief.

7. In order to prove their case, the plaintiff led the following oral as well as documentary evidence:-

Plaintiffs’ witnesses		Documents
PW-1	Viresh Mohan son of Inder Mohan	Ex.PW-1/A, Ex.P1 and Mark-A to Mark-D

7.1 The following documentary evidence was led by the plaintiff:-

Plaintiffs’ Documents	
Ex.PW1/A	Affidavit of PW Viresh Mohan
Ex.P1	Site Plan
Mark-A	Copy of sale deed dated 09.02.2000
Mark-B	Copy of Tatima sale deed dated 15.03.2000
Mark-C	Copy of letter bearing No.1822 dated 19.02.2001
Mark-D	Copy of letter bearing No.4293 dated 15.03.2002

8. On the other hand, the defendants have not led any oral or documentary evidence in support of their submissions

9. After hearing arguments on behalf of the parties, vide impugned judgment and decree dated 12.10.2009, the Trial Court decreed the suit of the plaintiff with no order as to costs.

10. Aggrieved with the impugned judgment and decree, the defendant No.2 has filed the present appeal with the prayer to accept the same, set aside the impugned judgment, and dismissed the suit of the plaintiff with costs.

APPLICATION FOR CONDONATION OF DELAY

11. Alongwith the Appeal, an application under Section 5 of Limitation Act, 1963, seeking condonation of delay, has been filed by Appellant-defendant, on the averments that the suit filed by the respondent-plaintiff was decided vide impugned judgment and decree dated 12.10.2009. Thereafter, the appellant-applicant obtained certified copy of the impugned judgment and decree and sent the same to the higher authorities seeking legal opinion from the office of Chief Administrator, HSVP Panchkula for filing appeal against the impugned judgment and decree dated 12.10.2009. On receiving such opinion that an appeal should be preferred against the judgment and decree, the appeal had been filed by the applicant along with this application. It is submitted that the delay of 175 months in filing the appeal was not intentional, but due to the reason as mentioned above and hence, prayer has been made for allowing the application. Affidavit of the

Estate Officer , HSVP has also been filed in support of the Application.

12. **Contesting the Application** Reply has been filed by respondent submitting that the application is not maintainable. It is alleged that there was delay of more than **5375 days** in filing the application/appeal, however, the applicant was well aware about passing of the impugned judgment and decree. That the impugned judgment and decree has even been incorporated in the revenue record and the property in question has also been repeatedly sold out to a number of persons and this fact is also within the knowledge of the applicant. It is submitted that the delay in filing the application/appeal has not been satisfactorily explained. Hence, the application is liable to be dismissed.

12.1 In support of his submissions, learned counsel for the respondent-plaintiff placed reliance upon the authority cited as **Shivamma (Dead) by LRs vs Karnataka Housing Board**, 2025 INSC 1104, wherein it has been held by the Hon'ble Apex Court that "Sufficient cause" must be shown for the delay throughout this entire period and administrative lethargy or negligence by State Authorities, can't be treated as sufficient cause and Courts must not condone delay mechanically in cases of inordinate delay by State instrumentalities. It has been further held that condonation of delay merely to protect public interest is not a valid ground, if delay is due to State negligence. Public interest is better served by enforcing limitation, strictly to promote accountability and timely action. He has also cited various case law in support of his case.

ARGUMENTS ON BEHALF OF APPELLANT/DEFENDANT NO.2

13. Learned counsel for the appellant has argued that though there is considerable delay in filing the present appeal, the same deserves to be condoned in the interest of substantial justice. It is submitted that immediately after passing of the impugned judgment and decree dated 12.10.2009, certified copies thereof were obtained and the matter was processed through the departmental hierarchy by seeking legal opinion from the office of the Chief Administrator, HSVP, Panchkula. Only after receipt of legal opinion recommending filing of an appeal, the present appeal came to be instituted.

13.1 It is further argued that the appellant is a statutory authority and every decision regarding institution of litigation has to pass through several administrative levels involving examination of records, legal scrutiny and approval from the competent authority. Such administrative procedures necessarily consume time and the delay is neither deliberate nor actuated by mala fides.

13.2 It has further been argued that refusal to condone the delay would result in perpetuation of an illegal decree concerning public land acquired under the provisions of the Land Acquisition Act. According to the appellant, the suit property forms part of acquired land which vested absolutely in the State free from all encumbrances upon acquisition and delivery of possession. Therefore, the matter concerns public property and substantial public interest would suffer if the appeal is rejected merely on

the technical ground of limitation.

13.3 Learned counsel has further contended that while considering an application under Section 5 of the Limitation Act, the Court is required to adopt a liberal and justice-oriented approach. It is argued that technical considerations should not prevail over substantial justice particularly where valuable public property is involved. Reliance has been placed upon the settled proposition that unless gross negligence, mala fides or deliberate inaction is established, courts should lean in favour of adjudication on merits rather than shutting the doors of justice on technical grounds.

13.4 It has lastly been argued that no irreparable prejudice would be caused to the respondent if the delay is condoned, whereas refusal to condone the delay would deprive the appellant of an opportunity to challenge a decree which, according to it, adversely affects public property.

ARGUMENTS ON BEHALF OF THE RESPONDENT–PLAINTIFF

14. Per contra, learned counsel appearing on behalf of the respondent has vehemently opposed the application. It is argued that the delay in the present case is not of a few days or months but of about **175 months (approximately 5375 days)**, which is extraordinary and unprecedented. Such enormous delay cannot be condoned merely by making a bald assertion that the file was sent to higher authorities for legal opinion. It has been submitted that the application is conspicuously silent regarding the exact chronology of events. Neither the date on which certified copies were obtained has been disclosed nor the dates on which the matter was

processed at different administrative levels have been mentioned. Similarly, the date of receipt of legal opinion, approval by the competent authority and other material particulars have deliberately been withheld. Thus, there is absolutely no explanation for each day's delay, or at least for the long period of more than fourteen years.

14.1 It has further been argued that mere movement of files within government offices or administrative red tape cannot constitute "sufficient cause" under Section 5 of the Limitation Act. Government departments cannot claim a special privilege in matters of limitation and are equally bound by the law.

14.2 Learned counsel has further submitted that after passing of the decree, the same has attained finality and has been duly reflected in the revenue record. Rights have crystallized over the years and the property has also changed hands on several occasions. Therefore, entertaining the appeal after such an extraordinary lapse of time would seriously prejudice vested rights acquired by the respondent and subsequent purchasers. In support of his submissions, learned counsel has relied upon **Shivamma (Dead) through LRs versus Karnataka Housing Board**, 2025 INSC 1104, wherein the Hon'ble Supreme Court has categorically held that "sufficient cause" must be shown for the entire period of delay and administrative inefficiency or governmental lethargy cannot be treated as sufficient cause. It has further been held that public interest cannot be invoked to condone delay caused by negligence of State authorities.

14.3 Reliance has also been placed upon **Shankargir versus State of Madhya Pradesh**, Civil Appeal No.14613 of 2025; **M/s C.P. Agriculture Pumps versus M/s R.R. Polymers**, CRM-21575 of 2018 decided on 13.01.2025; **Kishore Kumar versus State of Punjab**, CWP-21745 of 2021 decided on 17.11.2025; **Muttappa Hanamappa Kumbar versus Special Land Acquisition Officer**, MFA No.102526 of 2019; and **The High Court of Chhattisgarh versus Kiran Rathi**, WA No.499 of 2025, to contend that inordinate delay cannot be condoned in absence of a satisfactory explanation. It is prayed for dismissing the application with heavy costs.

FINDINGS ON THE APPLICATION FOR CONDONATION OF DELAY

15. I have heard learned counsel for the parties and have carefully considered the rival submissions. The impugned judgment and decree were passed on **12.10.2009**, whereas the present appeal has admittedly been instituted after about **175 months**, or say more than 14 years. Thus, there is an extraordinary and inordinate delay in filing the appeal. The only explanation furnished by the appellant is that certified copies of the judgment and decree were obtained and thereafter the matter was sent to the higher authorities for legal opinion and, after receipt of such opinion recommending filing of the appeal, the present appeal came to be filed. In the considered opinion of this Court, the explanation furnished in the application falls far short of the requirement of Section 5 of the Limitation Act.

15.1 It is well settled that while the expression "sufficient cause"

occurring in Section 5 deserves liberal construction so as to advance substantial justice, such liberality cannot be extended to condone gross negligence, unexplained inaction or administrative lethargy. The applicant is required to furnish a reasonable and satisfactory explanation covering the entire period of delay.

15.2 In the present case, the application does not disclose the dates on which certified copies were obtained, when the file was forwarded to the higher authorities, when legal opinion was sought, when it was received, what prevented the authorities from taking action for more than fourteen years and what steps, if any, were taken during this prolonged period. Except making a vague assertion regarding administrative processing of the matter, no particulars whatsoever have been furnished.

15.3 Even the affidavit filed in support of the application merely reiterates the averments made therein and does not furnish any additional factual details explaining the enormous delay. The explanation, therefore, remains wholly vague and unsubstantiated. The Hon'ble Supreme Court in **Shivamma (Dead) through LRs versus Karnataka Housing Board, 2025 INSC 1104**, has emphatically held that State authorities cannot seek condonation of extraordinary delay merely on account of administrative inefficiency or bureaucratic delay and that public interest itself is not a ground to condone delay caused by negligence. The Court has reiterated that "sufficient cause" must extend to the entire period of delay.

15.4 The principle laid down in the aforesaid judgment squarely

governs the facts of the present case. The appellant has failed to explain the delay of more than fourteen years with any degree of specificity or diligence. This Court is also mindful that limitation is founded upon public policy and is intended to impart certainty and finality to judicial proceedings. Once valuable rights have accrued in favour of a successful litigant, such rights ought not to be lightly disturbed by condoning enormous delay on vague and general assertions.

15.5 The contention of the appellant that public property is involved also does not persuade this Court to exercise discretion in its favour. The Supreme Court has repeatedly held that governmental authorities do not enjoy any separate or privileged status in matters relating to limitation and are equally bound to act with diligence and promptitude. Reference in this regard has been made to **Balwant Singh Vs. Jagdish Singh & Ors.** 2010 AIR (SC)3043. It has been held in para 13 as under :-

‘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. The application filed by the applicants lack in details. Even the averments made are not correct and ex-facie lack bona fide. The explanation has to be reasonable or plausible, so as to persuade the Court to believe that the explanation rendered is not only true, but is worthy of exercising judicial discretion in favour of the applicant.’

15.6 Thus where a routine application has been filed seeking

condonation of delay, without explaining each day's delay, effort to obtain opinion on an early date, various officers who handled the file during the long period of fourteen years, this Court has no hesitation in holding that the appellant has failed to establish "sufficient cause" within the meaning of Section 5 of the Limitation Act for condonation of the extraordinary delay of about **175 months** in preferring the present appeal. Consequently, the application under Section 5 of the Limitation Act seeking condonation of delay is **dismissed**. As a necessary corollary, the appeal, being barred by limitation, is also **dismissed**, with costs.

CONCLUSION:

16. Consequent upon the discussion above, the appeal in hand is Dismissed with costs being barred by Limitation. Decree sheet be prepared accordingly. The trial court record along with a copy of this judgment be sent to the learned trial court. File be consigned to the record room after due compliance.

Pronounced in open Court.
Dated: 23.07.2026

(Vani Gopal Sharma)
District Judge, Panipat
(UID No.HR0073)

Note: All the pages of this judgment have been checked and signed by me.

(Vani Gopal Sharma)
District Judge, Panipat