

CNR No. HRKU01-002031-2024

CM/178/2024

UHBVNL, etc. Vs. Joga Singh

Present: Shri Rajeev Kumar, counsel for the applicants/
appellants/defendants.

Shri H. S. Atwan, counsel for the respondent/plaintiff.

ORDER:

This order would dispose of the present civil miscellaneous application moved on behalf of the applicants/appellants/defendants UHBVNL, etc. for condonation of delay, in which it has been submitted that the applicants/appellants/defendants have filed the present appeal after a delay of 92 days which is only due to the reason that the Nigam has applied for grant of permission to file the appeal to the higher authorities and it took time in getting the said permission and providing of documents/file to its counsel so the said delay occurred in filing the present appeal. It has also been submitted that delay in filing the present appeal was not intentional rather due to the aforesaid bonafide reason. It has further been submitted that in case the delay in filing the present appeal is not condoned, the applicants/appellants/defendants shall suffer irreparable loss and injury.

2. Reply to the said application has not been filed by the respondent/plaintiff. The learned counsel for the respondent/plaintiff has submitted that the delay of more than 92 days in filing the present appeal has not been properly explained and the averments mentioned in the application are totally false and not sufficient to condone the delay. It has

further been submitted that each and every day's delay is very important to be explained for condonation of delay, but the applicants/appellants/defendants have failed to explain the same. It has been submitted that the delay is intentional on the part of the applicants/appellants/defendants and is not liable to be condoned.

3. I have heard learned counsel for the applicants/appellants/defendants and learned counsel for the respondent/plaintiff and have gone through the documents placed on the file carefully.

4. It transpires that the applicants/appellants/defendants have sought condonation of delay of 92 days in filing the present appeal on the ground that the Nigam had applied for grant of permission to file the appeal to higher authorities and it took time in getting the said permission and providing of documents/file to its counsel. It is settled law that the Courts should decide the cases on merits by hearing the parties and the court should not consider technicalities and that nobody should go unheard by the court of law. In the case titled as *Collector, Land Acquisition, Anantnag & Anr. Versus Mst. Katiji & Ors. (1997) 2 Supreme Court Cases 107*, the Hon'ble Supreme Court has held as under:

“The legislature has conferred the power to condone delay by enacting Section 92 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on 'merits'. The expression “sufficient cause” employed by the legislature is adequately

elastic to enable the courts to apply the law in a meaningful manner which sub-serves the ends of justice, that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have perlocated down to all the other courts in the hierarchy and such a liberal approach is adopted on principle as it is realized that:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in in-justice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of malafides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.
6. It must be grasped that judiciary is respected not account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

5. Similarly, in case titled as '*N. Balakrishnan Versus M.*

Krishnamurthy AIR 1998 SC 3222, Hon'ble Supreme Court has held that:

“9. It is axiomatic that condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be un-condonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory....”

It has further been held in the said case that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice.

6. In the case titled as *G. Ramegowda versus The Special Land Acquisition Officer, Bangalore AIR 1988 SC 897*, it has been held by the Hon'ble Supreme Court that the expression 'sufficient cause' in S. 5 must receive a liberal construction so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bonafides is imputable to the party seeking condonation of the delay.

7. In view of the above, the instant civil miscellaneous application for condonation of delay moved by the applicants/appellants/

defendants is allowed and the said delay in filing the present appeal stands condoned.

8. However, nothing discussed above shall be construed as an expression of thoughts on the merits of the case. Papers be tagged with the main case file.

9. Civil Appeal be registered and file be put up after some time.

Pronounced in open Court.

Dated:15.07.2024.

narinder

(Amarinder Sharma)

Additional District Judge,

Kurukshetra.(UID:HR0186)