

Title Appeal 63 of 2018

Order No. 21 dated 17.02.2023

The petition under Section 5 of the Limitation Act is taken up for hearing.

Heard both sides.

Perused the petition and written-objection filed by the parties.

It appears from the of

file note that the appeal is filed after a delay of 250 days. It is the case of the appellant that the appellant is an aged ailing person has been suffering from various ailments for which the appeal could not be filed in time. That was the reason for filing of the appeal after the period of limitation.

Having considered the version and counter version of the parties, this Court finds that there is no doubt delay of almost 250 days in filing the appeal. It is observed by the Hon'ble Supreme Court in Collector Land Acquisition vs. Mst. Katiji & ors. (AIR 1987 SC 1353) that the legislature has conferred the power to condone delay by enacting Section 5 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 meaning-ful manner which subserves the ends of justice. "Every day's delay must be explained" does not mean that a pendantic approach should be made. 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.

The reason shown for causing delay in filing the appeal is found sufficient and may be condoned taking justice oriented approach. Hence, the delay is condoned.

The appeal is admitted.

Call for L.C.R.

Fix 10.04.2023 for L.C.R.

D/C by me.

Sd/-

D.J

Sd/- (Abhijit Som)

District Judge, Hooghly