



\$~Suppl.-15

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RFA (OS) 29/2020

APCO TITAN

.....Appellant

Through: Dr. A.M. Singhvi, Senior Advocate
with Mr. Rajat Singh, Mr. Amit
Bhandari, Mr. Girish Chowdhary,
Mr. Samarth Mohanty, Advocates

Versus

NATIONAL HIGHWAYS AND INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD. & ORS.Respondents

Through: Mr. Prasenjit Keswani with Mr.
Upmanyu Tiwari, Advocate for
R-1.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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13.01.2021

CM APPL.15491/2020 (CONDONATION OF DELAY)

The appellant by way of the present application seeks condonation of delay in filing the present appeal. It is pertinent to mention that the suit filed by the appellant was dismissed on an application under Order VII Rule 11 CPC filed by the respondent No. 1 being allowed by the learned Single Judge on 22nd October, 2019.

It is the case of the appellant that due to subsequent events, it filed a review petition on 18th February, 2020 which was decided on 13th July, 2020 on merits. Within three days of dismissal of the review petition, the present appeal was filed on 16th July, 2020.

Per Contra, learned senior counsel for the respondents state that



the review itself was barred by delay and as the review was not bonafide, the time spent in prosecuting the review should not be excluded.

However, the perusal of the order dated 13th July, 2020 passed by the learned Single Judge disposing of the appellant's review petition shows that it was decided on merits and not on the ground of delay. As a natural corollary it is inferred that the Ld. Single Judge had been pleased to condone the delay in filing of the review application/petition. Consequently, there are sufficient grounds made out to allow the appellants application for condonation of delay.

Further, the Supreme Court in **Collector, Land Acquisition, Anantnag v. Katiji, (1987) 2 SCC 107**, has held as under:-

“3. [...] The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves 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 percolated down to all the other Courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

[...]

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.

[...]



6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.[...]"

In *G. Ramegowda v. Spl. Land Acquisition Officer* (1988) 2 SCC

142, the Supreme Court has also held as under:-

14. [...] However, the expression "sufficient cause" in Section 5 must receive a liberal construction so as to advance substantial justice and generally delays in preferring are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of delay [...]"

Keeping in view the aforesaid, the delay in filing the present appeal is condoned.

Accordingly, the present application stands allowed.

RFA (OS) 29/2020

List the appeal for hearing on 05th April, 2021.

All the parties are directed to file their short written submissions, not exceeding three pages each before the next date of hearing.

The order be uploaded on the website. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

ASHA MENON, J

JANUARY 13, 2021

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