

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2011
(CC 10955/2011)
(From the judgement and order dated 04/01/2001 in RFA No.564/1999 of The
HIGH COURT OF DELHI AT N. DELHI)

UNION OF INDIA

Petitioner(s)

VERSUS

SITA RAM SHARMA & ORS.

Respondent(s)

With I.A.1 (C/delay in filing SLP and office report)
WITH S.L.P.(C)...CC NO. 12458 of 2011
With I.A.1 (C/delay in filing SLP and c/delay in refiling SLP and office
report)
S.L.P.(C)...CC NO. 12476 of 2011
With I.A.1 (C/delay in filing SLP and office report)
S.L.P.(C)...CC NO. 11414 of 2011
With I.A.1 (C/delay in filing SLP and office report)
S.L.P.(C)...CC NO. 13175 of 2011
With I.A.1 (C/delay in filing SLP and office report)

Date: 29/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Ms.Rekha Pandey, Adv.
Mr.Shashank Bajpai, Adv.
Mr.W.A.Qadri, Adv.
Mr.Mohan Prasad Gupta, Adv.
Ms.Gargi Khanna, Adv.
Mrs. Anil Katiyar, Adv.

For Respondent(s) Mr.Pallav Shishodia, Sr.Adv.
Ms.Shrabani Chakrabarty, Adv.
Mr.Avijit Bhattacharjee, Adv.

Mr.Shashindra Tripathi, Adv.
Mr. Debasis Misra, Adv.
Ms.Pratibha Sharma, Adv.

Mr.Aviyeet Bhujabal, Adv.
Mr.D.M.Sharma, Adv.
Mr. Parmanand Gaur, Adv.

Mr.Vishnu B.Saharya, Adv.
Mr.Viresh B.Saharya, Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay of 24 days in refiling Special Leave Petition (C)
No.....of 2011 (CC No.12458 of 2011) is condoned.

These petitions are directed against judgments dated 7.12.2000
and 4.1.2001 of the Division Bench of the Delhi High Court whereby the
appeals filed by the respondents under Section 54 of the Land Acquisition
Act, 1894 were allowed and it was declared that they are entitled to
compensation at the rate of Rs.345/- per square yard with other statutory
benefits.

The petitioners have also filed applications for condonation of delay ranging from 3705 to 3771 days.

We have heard Ms. Rekha Pandey, learned counsel for the petitioner, Shri Pallav Shishodia, learned senior advocate and S/Shri Shashindra Tripathi and Avijeet Bhujbal, learned counsel appearing for the respondents and Shri Vishnu B. Saharya, Advocate for the Delhi Development Authority and carefully perused the record.

In SLP (C).....CC 10955/2011, the petitioner has tried to explain 3705 days delay by making the following averments:

"That the reasons for delay occurred in filing Special Leave Petition are as under:

i) That the impugned judgment was passed by the Hon'ble High Court on 4.1.2001.

ii) That on 12.9.2001 DLA was opined for filing SLP in similar matters against the judgment of High Court received.

iii) That on 19.1.2011 a report was submitted by Kanoogo (LA) stating that he had appeared in the Hon'ble Court of ADJ Sh. Suresh Kumar Gupta on behalf of LAC (East). The Hon'ble ADJ directing to furnish the status of SLP in the said case including other three cases.

iv) That on 24.1.2011 letter to Additional Government Advocate was written for providing status of S.L.P. filed or not in the Hon'ble Supreme Court of India. But the same was returned due to non-availability of RFA No. and date of judgment of Hon'ble High Court in the said letters.

v) That on 25.1.2011 Kannongo (LA) was directed to provide/trace the same.

vi) That on 11.2.2011 RFA No. and date of judgment of Hon'ble High Court was found.

vii) That on 16.8.2011 letter was written to Additional Government Advocate to provide status of SLP filed in RFA No. 55/2001. The same was done as enquired from Hon'ble ADJ in the current Ex. No. 74/8/7.

viii) That on 17.2.2011 the same was received by hand by the staff of Additional Government Advocate.

ix) That on 23.2.2011 reply from Additional Government Advocate received enclosed with information slip retrieved through National Informatics Centre, Courts Information Centre, Courts Information Division, dated 17.2.2011, stating that no such case has been filed by Central Agency Section till date.

x) That on 28.3.2011 letter to Advocate on record was prepared for filing SLP in the said case.

xi) That on 8.4.2011 letter along with required documents sent to Additional Government Advocate, Central Agency Section, Supreme Court, for filing SLP in the said in the Hon'ble Supreme Court of India.

xii) That on 11.5.2011 the file marked to panel advocate for drafting of application for condonation of delay.

xiii) That on 12.5.2011 the panel advocate submitted the draft of Application for condonation of delay to the Central Agency Section."

On 1.11.2011, the learned Additional Solicitor General sought an adjournment to enable the concerned officer to file an additional affidavit to explain the delay. Thereafter, additional affidavit dated 28.11.2011 of Shri V.P. Singh, Land Acquisition Collector (East District), L.M. Bundh, Shastri Nagar was filed. In paragraphs 5 to 13 of his affidavit, Shri V.P. Singh has averred as under:

"5. The present RFA No.564/1999 was filed by Shri Sita Ram Sharma, which was disposed of on 04.01.2001. It is submitted that from the record it appears that till 06.11.2001 the copy of the impugned order was not received by the Department, however there was intimation of the same. Therefore on 08.11.2001 the department sought certified copy of the impugned order. In the mean time the department sought copy of the order of High Court in Richpal case [RFA No.523/2000]. However the Department calculated the compensation as determined by ADJ in all three cases by 19.12.2001 and deposited the same on 11.01.2002 in the Court of ADJ. Thereafter the Court of ADJ sent notice for depositing the compensation as per decision of the High Court in RFA No.523/2000 and a note was put up on 15.04.2002 to this effect. While calculating the compensation at the rate determined by the High Court the LAC took a decision on 05.05.2002 to file Special leave petition. Further from the noting dated 18.05.2002 it is clear that a direction was issued to file Special leave petition by 25.5.2002.

6. In the mean time the amount as determined by High Court was received by the office of LAC from Delhi Jal Board on 10.02.2003 in respect of RFA No.523/2000 [Richpal case] and after approval same was deposited in the Court subject to Bank Guarantee. Thereafter the judgment dated 03.08.2004 of this Hon'ble Court in C.A.No.6767/2000 [DDA vs Bali Ram Sharma & Ors] was delivered and therefore action for refund was directed to be initiated vide note dated 11.03.2005.

7. It is submitted that a notice was sent to department from the Court of ADJ along with copy of the Judgment of High Court, however the concern Patwari put a note dated 28.11.2007 in connected RFA No.550/1999 that this Hon'ble Court in Bali Ram Case has reduced the amount and therefore in case of respondent and other landowners a calculation was made for the payment of compensation @ 76550/-per bigha as determined by this Hon'ble Court in the case of DDA Vs Bali Ram Sharma (2004) 6 SCC 533.

8. From the file it appears that a clarification was sought by Delhi Jal Board vide letter dated 27.8.2009 regarding payment made from time to time to the landowners. In response to the same the office of deponent sent a detailed note vide letter dated 04.12.2009 regarding the payment of compensation, which shows that the payment was made to the land owners/respondent herein @ which was determined by this Hon'ble Court in DDA Vs Bali Ram Sharma (2004) 6 SCC 533. A true and correct copy of letter dated 4.12.2009 written by LAC (East) is enclosed herewith & marked as Annexure A-1.

9. It is submitted that in present case also the compensation

amount as determined in DDA Vs Bali Ram Sharma (2004) 6 SCC 533 was deposited on 19.03.2010. A true and correct copy of the covering letter dated 18.03.2010 along with Form 'D' is enclosed herewith and marked as Annexure A-2.

10. That Kanoogo [L.A.] Mr. Dharam Veer visited the courts to enquire about the status of several cases pending before Lower Courts and in that connection he appeared before the Court on 18.01.2011 where he was directed by Ld. ADJ to furnish the status report as to whether Special leave petitions had been filed in those case or not . Mr. Dharam Veer reported the matter to the office of deponent on 19.01.2011.

11. However when the matter stood so a notice was received from Ld. ADJ with a direction of personal appearance of LAC to explain as to why orders of Hon'ble High Court has not been complied with and why the payment at the rate as determined by the High Court should not be made. The said notice was received by the Office of the deponent on 25.3.2011. However, the concerned patwari sent the report of the said direction on 21.03.2011 itself. A true and correct copy of the notice issued by Id ADJ, received on 25.03.2011 is enclosed herewith and marked as Annexure A-3.

12. In view of this, the office of deponent addressed a letter to the Addl. Government Advocate, Central Agency Section requesting to furnish information about the status of Special Leave Petition in the abovementioned cases. Further the information was sought through NIC and it was found that no Special leave petition was filed in these cases.

13. That after the enquiry from the registry of this Hon'ble Court and after searching of the record of the office of the deponent it was found that the impugned order in question was not challenged and therefore a decision was taken to challenge the impugned judgment and on 10.05.2011 necessary orders were passed. Thereafter, on the same date [10.05.2011] file was sent to Central Agency Section In respect of both the cases Ramesh Chand and Sita Ram (being RFA No.550/99 and 564/99 respectively)."

In the applications filed for condonation of delay in other special leave petitions, the averments similar to those contained in the application filed in SLP(C).....CC No.10955 of 2011 have been made.

We have carefully scrutinised the averments contained in the applications for condonation of delay and the additional affidavit of Shri V.P.Singh.

In our view, the cause shown by the petitioners for delayed filing of the special leave petitions is wholly unsatisfactory and we do not find any valid ground or justification for exercise of power by this Court under Section 5 of the Limitation Act for condonation of more than 10 years delay.

It also deserves to be mentioned that similar applications filed for condonation of the delay of smaller periods were not entertained by this Court. SLP(C).....CC 3447/2003 was dismissed on 14.4.2003. SLP(C).....CC 6439/2003 was dismissed on 28.7.2003. SLP(C).....CC 6648/2003 was dismissed on 8.8.2003. SLP(C).....CC 4602/2003 was dismissed on 3.2.2004. SLP(C).....CC 10475/2005 was dismissed on 21.11.2005 on the ground of delay and also on merits. SLP(C).....CC 17802/2009 was dismissed on 30.11.2009. SLP(C).....CC 8456/2011 Union of India v. Ram Kishan was dismissed by detailed order dated 13.5.2011. SLP(C).....CC 10474/2011 Union of India v. Daulat Ram (D) Thr. Lrs. was dismissed on 8.7.2011 with the observation that the judgment of the High Court shall not be treated as precedent. SLP(C).....CC 14864/2011 was dismissed on 6.2.2012 on the ground of more than 10 years delay.

With the above observations, the applications for condonation of delay are dismissed. Consequently, the special leave petitions are dismissed as barred by time.

While dismissing the special leave petitions, we make it clear that the impugned judgments shall not be treated as precedents for other cases.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master