

However, the award was announced on 28th February, 1994. In my opinion, no useful purpose would be served to send back the case to the appellate Court as the award was announced about eight years back. Therefore, the time of one month is extended.

(9) Before parting, it is necessary to point out that the approach adopted by the appellate Court was not in accordance with law and the time should have been extended rather than placing reliance on judgment delivered under Section 20 of the Act in the case of *Prasun Roy* (supra). This case deals with entirely different proposition. Therefore, the approach adopted by the appellate Court cannot be countenanced. The reasoning adopted by the appellate Court has to be substituted by the reasoning given in paras above. However, it would not make any difference to the results which has been reached, namely, that the revision petition is devoid of any merit.

(10) For the reasons recorded above, this revision petition fails and the same is dismissed.

R.N.R.

Before G.S. Singhvi, A.C.J. & M.M. Kumar, J

DILBAGH SINGH,—Appellant

versus

**THE COLLECTOR, LAND ACQUISITION, INDUSTRIES,
DEPARTMENT, PUNJAB AND OTHERS.—Respondents**

L.P.A. No.1113 OF 2001

15th March, 2002

Limitation Act, 1963—S.5—Delay of almost 2 years 5 months in filing the appeal against the award of District Judge—Application for condonation of delay filed pleading ignorance and illiteracy—Whether sufficient ground to condone the delay—Held, yes—While considering the plea for condonation of delay raised by a rural litigant, the Court has to adopt an extremely liberal approach—Pendency of similar appeals arising out of the award relating to the same acquisition also a valid ground for condonation of delay—Appeal allowed, order

of Single Judge declining the prayer for condonation of delay set aside.

Held, that majority of people living in the rural areas of the country are illiterate and ignorant of their rights. They are also not aware of the intricacies of law and proceedings in the Courts and Tribunals. Most of the time, they are busy in earning their livelihood and suffer injustices at the hands of all and sundry including the State. Therefore, while considering the plea for condonation of delay raised by a peasant or litigant coming from rural area, the Court has to adopt an extremely liberal approach, more so when the case involves depriving the applicant of his source of livelihood. If the old and antiquated rule that each day's delay should be satisfactory explained is applied in such cases, then grave injustice would be done to a majority of population living in rural India and persons, like the appellant, would be deprived of their legitimate right to seek justice.

(Para 10)

Further held, that the pendency of appeals arising out of the awards passed by the District Judge in other cases relating to the same acquisition constituted a valid ground for condonation of delay in filing of the R.F.A by the appellant and the learned Single Judge erred in declining his prayer.

(Para 15)

Sarjit Singh, Sr. Advocate Assisted by Jagdev Singh,
Advocate for the petitioner/Appellant

Dr. S.K. Bhatia, Deputy Advocate General, Punjab for
respondent Nos. 1, 3 and 4.

Puneet Jindal, Advocate for respondent No. 2

JUDGMENT

G.S. SINGHVI, A.C.J.

(1) This appeal is directed against order dated 5th September, 2000,— *vide* which the learned Single Judge dismissed the application for condonation of delay as well as the Regular First Appeal filed by the appellant against the award of the District Judge, Kapurthala.

(2) The facts necessary for deciding the appeal are that,—*vide* notification dated 24th September, 1985 issued under Section 4 of the Land Acquisition Act, 1894 (for short, the Act), the State of Punjab acquired 1100 acres of land situated in eight different villages including the land of the appellant situated in village Rawal Bechirag, District Kapurthala. The Land Acquisition Collector awarded compensation at the following rates :—

Chahi — Rs. 22691 per acre.

Barani — Rs. 13731 per acre.

Gair Mumkin — Rs. 12483 per acre.

(3) Application filed by the appellant under Section 18 of the Act for enhancement of compensation was dismissed by the District Judge, Kapurthala alongwith similar applications,—*vide* award dated 3rd April, 1996.

(4) After 2 years and almost 5 months, the appellant filed R.F.A. under Section 54 of the Act along with an application under Section 5 of the Limitation Act for condonation of 793 days delay. The same were register as R.F.A. No. 3024 of 1998 and C.M. No. 3596-CI of 1998. In support of his prayer for condonation of delay, the appellant made the following averments :—

“2. That the State of Punjab,—*vide* notification dated 24th September, 1985 had acquired 1100 acres of land situated in 8 villages including the village of the appellant. The Collector has announced the award on 22nd January, 1986,—*vide* award No. 3. The award regarding compensation of other villages was also announced on the same date. The land owners had sought references and the reference was sent in 1989. The reference sought by the appellants was registered as reference No. 25 of 22nd September, 1989. Another reference sought by appellant was registered as reference number 24 of 1989. The reference sought by land owners of village Manga Bodha was registered as reference No. 29 of 1989. The appellants came to know about the judgment dated 4th May, 1998 in the

first week of June, 1998. The appellants made enquiries and came to know that the reference regarding their land has been decided on 3rd April, 1996. The appellants applied for the copy on 5th June, 1998 and the copy was received on 6th June, 1998. The High Court was closed for summer vacation and therefore the appeal was filed on 29th June, 1998.

3. That the appellants could not file the appeal because the references arising out of the same notification were pending and the appellants were under the impression that all the cases were being decided together. The appeal could not be filed earlier because of the *bona fide* mistake that all the references would be decided together and could not contact the counsel as appellants brother was looking after the case.
4. That there were two cases regarding the land of the appellants family. Besides the reference No. 25 concerning the appellants there was another reference No. 24 of 1989 which was concerning the appellant as well as his brothers Jagbir Singh, Raghubans Singh, Satnam Singh and Gurcharan Singh. Raghubans Singh was looking after both the cases. Raghubans Singh was under the *bona fide* belief that all the references would be decided together. On learning that other references had been decided in May, 1998, Raghubans Singh enquired about reference No. 24 and 25 and came to know that the same had already been decided on 3rd April, 1996. The delay, it is submitted has occurred because of a *bona fide* mistaken belief of Raghubans Singh and is inadvertant.”

(5) On being noticed by the Court, respondent No. 2 filed reply to contest the application for condonation of delay by making the following averments :—

- 3 & 4. That all the averments made in these paras are mis-statements are not based on true facts and circumstances of the cases. The reasons given that the brother of the appellant/claimant was looking after the

case is totally wrong and figment of imagination. It is the appellant/claimant himself who has stepped in the witness box and has made statement, which is the only evidence on record. This clearly shows that appellant/claimant was himself aware of the case and was therefore grossly negligent in not filing the appeal within the prescribed limitation period.

5. That appellant/claimant has been grossly negligent and has miserably failed to show any sufficient cause of condonation of inordinate delay of 793 days.”

(6) After hearing counsel for the parties, the learned Single Judge dismissed the application for condonation of delay as well as the main appeal by recording the following observations :—

“After hearing the learned counsel for the parties this Court is of the considered opinion that delay of 793 days in filing the present appeal cannot be condoned from any angle of vision or on any parameter.

It was submitted on behalf of the appellant that a huge area of 1100 acres was acquired by Single Notification. The appellant was not aware about the passing of the award by the Court. He came to know about the passing of the award only through other land-owners. The law helps the vigilant and not to the person who wants to sleep over his rights. The petitioner was represented before the Court through his lawyer. He should have contacted his lawyer from time to time about the passing of the award.

It was also submitted by the learned counsel for the appellant that against this very notification several appeals are pending in the High Court. This is not a precedent to the present appeal. Every case is to be considered on its own merit. The appeal has not been filed within limitation and sufficient cause has not been explained, under Section 5 of Limitation Act. The consequences are very fatal.”

(7) Shri Sarjit Singh argued that the view taken by the learned Single Judge on the issue of condonation of delay is too narrow and pedantic and is contrary to the law laid down by the Supreme Court in *Collector, Land Acquisition, Anantnag and another versus Mst. Katiji and others, (1)* and, therefore, the impugned order may be set aside. He stated that a large number of R.F.As. filed against the awards passed by the District Judge in relation to the acquisition in question are pending for hearing and this, by itself, should have been treated as sufficient cause for condonation of delay in filing the R.F.A.

(8) Shri Puneet Jindal supported the order under challenge and argued that even though the recent decisions of the Supreme Court suggest that the Court should adopt a liberal approach in the matter of condonation of delay, the appellant should not be given any relief because the explanation given by him for delay in filing of the R.F.A. was wholly unsatisfactory. Learned counsel submitted the appellant's plea of ignorance about the proceedings was rightly not entertained by the learned Single Judge because he had appeared as a witness in support of his claim. He, however, conceded that a number of R.F.A. arising out of the awards passed by the District Judge, Kapurthala in relation to the same acquisition are pending in this Court. Shri Jindal gave out number of one of such R.F.A. as 3259 of 1998.

(9) Mrs. S.K. Bhatia, learned Deputy Advocate General, Punjab supported the arguments of Shri Jindal and submitted that the L.P.A. may be dismissed as not maintainable.

(10) We have given serious thought to the respective arguments. In our opinion, learned counsel for the appellant is correct in his submission that the view taken by the learned Single Judge on the issue of condonation of delay is contrary to the liberal approach reflected in the recent decisions of the Supreme Court and, therefore, the impugned order deserves to be set aside. The solitary reason assigned by the learned Single Judge for declining the appellant's prayer for condonation of delay appears to be that he had not contacted his lawyer from time to time. In this context, it is important to bear in mind that majority of people in the rural areas of the country are

(1) AIR 1987 SC 1353

illiterate and ignorant of their rights. They are also not aware of the intricacies of law and proceedings in the Courts and Tribunals. Most of the time, they are busy in earning their livelihood and suffer injustice at the hands of all and sundry including the State. Therefore, while considering the plea for condonation of delay raised by a peasant or litigant coming from rural area, the Court has to adopt an extremely liberal approach, more-so when the case involves depriving the applicant of his source of livelihood. If the old and antiquated rule that each day's delay should be satisfactorily explained is applied in such case, then grave injustice would be done to a majority of population living in rural India and persons, like the appellant would be deprived of their legitimate right to seek justice.

(11) In **Collector, Land Acquisition, Anantnag**, versus **Mst. Katiji (supra)** the Supreme Court made a departure from the old school of thought on the interpretation of the expression 'sufficient cause' appearing in Section 5 of the Limitation Act and held that the courts should adopt liberal approach in condoning the delay. This is clearly reflected in the following portions of the judgment :

"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 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 :

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 injustice 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 *mala fides*. 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 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.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal."

(12) In *Ram Kishan and another versus U.P. State Roadways Transport Corporation and another* (2), their Lordships condoned the delay in filing the application for compensation before the Motor Accident Claims Tribunal and remanded the case despite the fact that the story put forward by the appellants was not found convincing.

(13) In *M.K. Prasad versus P. Arumugam* (3), their Lordships of the Supreme Court reiterated the liberal approach in condonation

(2) 1994 Suppl (2) SCC 507

(3) (2001) 6 SCC 176

of delay by recording the following observations:—

“In construing Section 5 of the Limitation Act, the court has to keep in mind that discretion in the section has to be exercised to advance substantial justice. The court has a discretion to condone or refuse to condone the delay as is evident from the words “may be admitted” used in the section.

xx xx xx xx xx xx xx xx xx

Even though the appellant appears not to be as vigilant as he ought to have been, yet his conduct does not, on the whole, warrant to castigating him as an irresponsible litigant. He should have been more vigilant but his failure to adopt such extra vigilance should not have been made a ground for ousting him from the litigation with respect to the property, concededly to be valuable. While deciding the application for setting aside the *ex parte* decree, the court should have kept in mind the judgment impugned, the extent of the property involved and the stake of the parties.”

(14) We may now revert to the case in hand. A perusal of the averments contained in the application for condonation of delay in filing the R.F.A. shows that the case of the appellant was being pursued by his brother Raghubans Singh, who remained under a mistaken impression that all the references arising out of the acquisition of 1100 acres of land would be decided simultaneously. Therefore, he did not try to enquire about the decision of the references filed by the appellant and his family members. The averments contained in the application were supported by the affidavit of Raghubans Singh. In the reply filed on behalf of respondent No. 2, an attempt has been made to discredit the Version of the Appellant by saying that he had himself appeared in the witness box, in our opinion, the appearance of the appellant as a witness cannot lead to an inference that he was himself pursuing the matter before the District Judge. That, apart, he and his brother cannot be accused of lack of vigilance because the latter remained under a *bona fide* impression that all the references arising out of the same acquisition would be decided by one award.

(15) We are further of the view that the pendency of appeals arising out of the awards passed by the District Judge in other cases relating to the same acquisition constituted a valid ground for condonation of delay in filing of the R.F.A. by the appellant and the learned Single Judge erred in declining his prayer.

(16) Hence, the appeal is allowed. The order of the learned Single Judge is set aside. The delay in filing of the R.F.A. is condoned. The R.F.A. may now be listed for hearing before the learned Single Judge along with other similar appeals.

R.N.R.

Before R.C. Kathuria, J

M/S ASHOK LEYLAND FINANCE LTD.—*Petitioner*

versus

RAMESH KUMAR—*Respondent*

CrI. R.No. 486 of 2001

9th May, 2002

Code of Criminal Procedure, 1973—Section 451—Motor Vehicles Act, 1988—Ss.41 & 230—Hire purchase agreement—Default in payment of instalments by the hirer—Whether the Company/ financier has a right to take possession of the vehicle—Held, yes—Registration certificate issued in his name confers no right on hirer to become an absolute owner untill he fulfils the terms & conditions of the hire purchase agreement—Petition allowed while setting aside the orders of the Distt. Judge directing the release of vehicle to the hirer.

Held, that the net consequence of the provisions of S.230 of the Motor Vehicles Act would be that despite there being hire purchase agreement, the person in possession under the hire-purchase agreement will be entitled to move an application under section 41 of the Act so as to enable him to get his name entered as registered owner in the certificate of Registration. The object of enabling these provisions under the Act of 1988 appears to recognize the hirer as an owner not only to retain the Registration Certificate in respect of the vehicle