

(2020) 02 CHH CK 0138

In the Chhattisgarh High Court

Case No : WRIT PETITION (C) NO. 455 Of 2020

Ashok Kumar Bohra (Jain)

APPELLANT

Vs

Dhamtari Grih Nirman Sahkari Sanstha Maryadit Dhamtari
And Ors

RESPONDENT

Date of Decision : 03-02-2020

Acts Referred:

Constitution Of India, 1950 — Article 14, 226

Citation : (2020) 02 CHH CK 0138

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Arati Chand Dutta, Ishan Verma

Final Decision : Dismissed

Judgement

@JUDGMENT-JUDGMENT

1. Challenge in the present writ petition is to the order dated 13.2.2002 passed by respondent no.1 society and the order dated 19.1.2005 passed by the

Additional Registrar, Cooperative Societies, Chhattisgarh, Raipur.

2. Contention of the learned counsel for the petitioner is that the petitioner had purchased a plot, i.e., plot no.34, from the respondent no.1 society way

back in the year 1986. Since the petitioner could not raise any construction on the said plot, the society in the year 2002 had cancelled the allotment

made to the petitioner and thereafter by way of a registered sale deed dated 19.9.2002 sold the property to respondent no.2. Meanwhile, the said

cancellation of the plot was subjected to challenge before the Joint Registrar, Cooperative Societies who passed an order in favour of the petitioner on

20.9.2004. Later on, the said order of the Joint Registrar was challenged by the society as well as by the allottee by a joint appeal before the Registrar,

Cooperative Societies and the Additional Registrar, Cooperative Societies set aside the order of the Joint Registrar vide the impugned order dated

19.1.2005 (Annexure P-1).

3. It is this order dated 19.1.2005 of the Additional Registrar, Cooperative Societies which is under challenge in the present writ petition which has

been filed only on 20.1.2020, that is after more than 15 years.

4. It is not a case where the petitioner was not aware of the proceedings drawn by the respondent no.1 society or, for that matter, the impugned order

passed by the Additional Registrar. It is also not in dispute that the petitioner was fully aware of the property being sold to respondent no.2 after

cancellation of the allotment made to the petitioner, which too was in the year 2002. From the date of cancellation of the plot and the fresh allotment

made to respondent no.2, the present writ petition has been filed after more than 18 years and from the date the impugned order has been passed

against the petitioner by the Additional Registrar, Cooperative Societies, the present writ petition has been filed after more than 15 years. Given the

facts, this Court is of the firm view that the present writ petition suffers from inordinate delay and laches.

5. So far as delay and laches are concerned, the law in this regard is by now well settled by a series of decisions of the Hon'ble Supreme Court. The

question of delay and laches came to be considered recently by the Hon'ble Supreme Court in case of *State of Uttaranchal and Another Vs. Shiv*

Charan Singh Bhandari and Others, reported in 2013 (12) SCC 179 in which the Supreme Court has declined to exercise extraordinary jurisdiction in

case the petitioner invokes jurisdiction of the Court with inordinate delay, and held as under :

In *State of T.N. v. Seshachalam*, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has

ruled thus: -

...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the

question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive

him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is

well known that law leans in favour of those who are alert and vigilant.â??

6. Likewise, in the case of â??Uttaranchal Forest Development Corpn. And another Vs. Jabar Singh and othersâ? reported in (2007) 2 SCC 11,2 it was observed as under:

â??43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The

High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and

that the writ petitions should have been dismissed by the High Court on the ground of laches.â??

7 Further, in the case of â??New Delhi Municipal Council Vs. Pan Singh and othersâ? reported in (2007) 9 SCC 27,8 the Hon'ble Supreme Court

reiterating the principles relating to interference in cases where the petitioner approached the Court with unexplained delay, held as under:

â??16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not

agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did

not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those

employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time,

therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be

exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction.

(See Govt. of W.B. v. Tarun K. Roy, U.P. Jal Nigam v. Jaswant Singh and Karnataka Power Corpn. Ltd. v. K. Thangappan.)â??

8. In the case of â??P. S. Sadasivaswamy Vs. State of Tamil Naduâ?? reported in (1975) 1 SCC 152, it has been held as under:-

â??It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case

where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for

the Courts to refuse to exercise their extraordinary powers under Article 226 in

the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal.

9 Very recently in the matter of *Chennai Metropolitan Water Supply and Sewerage Board and Others Vs. T.T. Murali Babu* reported in 2014

(4) SCC 108, the Supreme Court has clearly held that the delay may have impact on others' ripened rights and may unnecessarily drag others into litigation, and expressed their opinion as under-

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant "a litigant who has forgotten the basic norms, namely, procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the

responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining

innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay

may have impact on othersâ?? ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have

been treated to have attained finality. A court is not expected to give indulgence to such indolent persons â?? who compete with

â??Kumbhakarnaâ?? or for that matter â??Rip Van Winkleâ??. In our considered opinion, such delay does not deserve any indulgence and on the

said ground alone the writ court should have thrown the petition overboard at the very threshold.â??

10. From the aforesaid legal position as it stands, this Court does not find any strong case made out by the petitioner calling for an interference with

the impugned order and the writ petition therefore deserves to be and is accordingly dismissed only on the ground of delay and laches alone.