
(2002) 01 RAJ CK 0152

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 746 of 1997

Dalpat Singh

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 24-01-2002

Acts Referred:

Limitation Act, 1963 — Section 5

Rajasthan Land Acquisition Act, 1953 — Section 18

Citation : (2003) 1 RLW 579

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Advocate : M.C. Bhoot, for the Appellant; B.P. Bohra, for R.P. Vyas and S.K. Vyas, for Union of India, for the Respondent

Final Decision : Dismissed

Judgement

Panwar, J.—This appeal is barred by 5391 days. The order impugned was passed by Civil Judge, Jodhpur a reference u/s 18 of the Rajasthan Land Acquisition Act, 1953 (for short "the Ad" hereinafter) on 18.9.81. The present appeal has been filed on 23.9.96. The period of limitation for filing appeal against the order passed u/s 18 of the Act is 90 days and the appeal has been filed after 5481 days from the date of the order impugned. Hence, it is barred by limitation of 5391 days. An application u/s 5 of the Limitation Act has been filed by the appellant supported by his affidavit. The ground taken in the application for condonation of such inordinate delay is that the appellant has been discriminated in the matter of award of interest and the appellant came to know of this fact on last Deepawali. Certificate copy of the order was applied on 3.8.96 after the lapse of period of about 15 long years. However, it was made available to the appellant on the very day. The appellant filed a writ petition under Article 226 of the Constitution of India in the year 1996 being S.B. Civil Writ Petition No. 2059/96, which was dismissed summarily on the ground of an alternative remedy being available to the petitioner appellant. Thereafter the appellant petitioner filed the present appeal. Another ground on which the condonation of

delay in filing the appeal is sought is that the appellant could not file the appeal on account of want of knowledge. The appellant was represented by his counsel before the learned Civil Judge in a reference u/s 18 of the Act. There is no allegation that he was not informed by his counsel regarding the order of the learned Civil Judge passed on 18.9.81. More so, the appellant has accepted and received the entire amount of compensation alongwith interest long back. Thus, if not earlier at least he acquired the knowledge of the order dated 18.9.81 on the day he received the compensation.

2. I have heard learned counsel for the appellant.

3. It is contended by the learned counsel for the appellant that courts should be liberal in condoning delay. He has relied on two Judgments of the Hon''ble Supreme Court: Collector, Land Acquisition: Anantnag and Anr. v. Mst. Katiji and Ors. (1) and N. Balakrishnan v. M. Krishnamurthy (2). In Collector, Land Acquisition, Anant-nag''s case (supra), the appeal was filed by the State through its Collector, Land which was time barred by four days and the matter in dispute involved Rs. 14 lacs. The compensation was enhanced from Rs. 1,000/- per kanal to Rs. 8,000/- per kanal i.e. increase by 800%. The Hon''ble Supreme Court held that the State which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner.

4. In N. Balakrishnan''s case (supra), a suit was decreed ex- parte on 28.10.91. An application to set aside the ex-parte decree was moved before the trial court, which was on 17.2.93. Thereafter the applicant therein moved on 19.8.95 for setting aside the order dated 17.2.93 which was delayed by 883 days. It Was the case in which the applicant therein engaged an Advocate for making the motion to set aside the ex-parte decree but the Advocate failed to inform him that the application was dismissed for default on 17.2.93. On receipt of summons from the execution side, he approached the Advocate. He signed some papers including a vakalatnama for resisting the execution proceedings, besides making a payment of Rs. 2,000/- towards Advocate''s fees and other incidental expenses. The fact remained that the said Advocate did not do anything in the Court even thereafter. The warrant of execution was issued. The appellant therein moved before the District Consumer. Disputes Redressal Forum ventilating his grievance and claiming a compensation of Rs. one lac against his Advocate and the said forum passed final order directing the Advocate engaged by the applicant therein to pay Rs. 50,000/- to the applicant besides the cost for his inaction. Taking into account the delay and inaction of the Advocate engaged by the applicant therein, the trial court condoned the delay. On revision, the High Court of Madras, set aside the order of condonation of delay. The matter was carried to the Hon''ble Supreme Court and on the facts and circumstances of that case, the order of the trial Court was restored.

5. In P.K. Ramachandran v. State of Kerala and Anr. (3), the Hon''ble Supreme

Court field that the Court has not recorded any satisfaction that the explanation for, the delay was either, reasonable or satisfactory, which is essential prerequisite to condonation of delay. In that case, the appeal was filed before the Kerala High Court, which was delayed by 565 days. The delay was condoned by the High Court. On appeal to Hon''ble Supreme Court, the order of the High Court was set aside and their Lordships held that the delay explained can hardly be said to be a reasonable, satisfactory or even a proper, explanation for seeking condonation of delay.

6. In *Prakash and Another v. Managing Director. K.S.R.T.C. and Ors.* (4), the appeal filed before the Karnataka High Court was delayed by 416 days but the High Court found that there was no explanation for, an inordinate delay of 416 days and consequently, the appeal was dismissed. Against the said order of the Karnataka High Court, a SLP was filed before the Hon''ble Supreme Court. The Hon''ble Supreme Court found no adequate reason for condonation of delay of 416 days and accordingly, the SLP was dismissed.

7. Having considered the application filed by the appellant seeking condonation of delay in the light of the law propounded by the Hon''ble Supreme Court, in the instant case, there is no allegation as to whether the decision of the learned Civil. Judge dated 18.9.81 was conveyed to the appellant by his counsel. The appellant was represented by counsel and in absence of anything contrary, the decision was made known to him when it was made by the trial Court. Till 1996 for about period of 15 long years, the appellant kept quiet and he filed the writ petition before this Court only in the year 1996. The writ petition was dismissed summarily by this Court on the ground that the petitioned had an alternative remedy. The appellant who is erstwhile Maharaja, cannot be said to have knowledge Of filing an appeal in case he was aggrieved by the order dated 18.9.81. A bald statement that he could not file the appeal on account of want of knowledge, cannot be said to be a reasonable or satisfactory explanation for seeking condonation of inordinate delay of 5391 days. The judgments relied upon by the Learned counsel for the appellant are on different facts and situation and hence, not applicable in the instant case. The appellant has failed to show any cause muchless sufficient cause, which prevented him to file the appeal within the period of limitation. Hence, no case for condonation of inordinate delay of 5391 days is made out.

8. Resultantly, the application filed u/s 5 of the Limitation Act is devoid of any merit, Accordingly, it is dismissed. Consequently, the appeal is barred by limitation of 5391 days. Hence, dismissed. No costs.