

(1998) 07 GUJ CK 0066
In the Gujarat High Court

Deputy Collector

APPELLANT

Vs

Brahman Natvarbhai Manilal Mohanlal

RESPONDENT

Date of Decision : 03-07-1998

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (1999) 2 GLR 1411

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Judgement

S.K. Keshote, J.—In the Civil Applications, prayer has been made for condonation of delay of 74 days which has been caused in filing of the First Appeal before this Court u/s 54 of the Land Acquisition Act, 1894 against the judgment and award of the 2nd Extra Assistant Judge, Mahesana, in Land Acquisition Cases, main L.A.R. No. 905 of 1993, dated 28-2-1997.

2. From the statement which has been submitted by the learned Counsel for the appellant, I find that out of these 33 appeals, only in First Appeal No. 3725 of 1997, 3734 of 1997 and 3735 of 1997, the amount of additional compensation awarded is more than Rs. 15,000/- and in rest of the appeals this amount is less than Rs. 15,000/- and as such, the rest of the First Appeals are covered by the Division Bench decision of this Court in the case of Special Land Acquisition Officer v. Shantaben, Widow of Chhitubhai and Ors. in Civil Application No. 7876 of 1997 and allied matters, decided on 10-9-1997. In view of the Division Bench decision of this Court in the aforesaid case, no useful purpose will be served in condoning the delay in filing of these First Appeals. However, as in three appeals the amount of additional compensation is more than Rs. 15,000/-, it is necessary for this Court to consider these Civil Applications and appeals on merits also.

3. The Award has been made by the Reference Court in this case on 28-2-1997 and for certified copy of the said award, an application has been submitted on 6-3-1997 which was received on 25-4-1997 and the last day for filing of the appeal was 15th July 1997. This appeal has been filed before this Court on 30th

September 1997. A copy of the judgment was sent by the District Government Pleader, Mahesana, to the Legal Department which was received at Gandhinagar on 5-5-1997 and on the very day, papers were sent to the Narmada & Water Resources Department, but curiously, this Department has sat over the matter for more than four months. The papers were received by the Legal Department from the Narmada & Water Resources Department on 17-9-1997 and on 19-9-1997, letter has been despatched to the Government Advocate here to file appeal. The Government Advocate has also not taken considerable long time to file appeal. There is no explanation worth the name what to say of any sufficient cause by which the Government can be said to have been prevented from filing the appeal for the period from 5th May 1997 to 15th September 1997. If we go by the last date of limitation, then too, the Narmada and Water Resources Department has taken complete two months to clear the file. From the facts stated in this application, it is clearly borne out that it is a clear case of negligence and carelessness on the part of the concerned officers of the Narmada & Water Resources Department to deal with such an important matter where appeal has to be filed within limitation. I do not find any ground, much less, sufficient ground in this case by which the State Government can be said to have been prevented from filing the appeal within limitation in this Court.

4. In the result, all these Civil Applications fail and the same are dismissed. Rule discharged. Consequent upon the dismissal of these Civil Applications, all the First Appeals also deserve to be dismissed only on the ground that these are barred by limitation and accordingly, the appeals are also dismissed.

5. The State Government functions through its officers and they are not supposed to act carelessly and negligently in performance of their official duties. These are the appeals in land acquisition matters. Thousands of appeals would have been filed by the Departments of the Government before this Court in the matter of land acquisition and it is difficult to accept that the officers dealing with these matters in the Departments may not be aware of the limitation prescribed for filing of the appeals u/s 54 of the Land Acquisition Act, 1894. So where limitation is prescribed, it is expected of the officers to process the files and complete the official formalities within limitation period. Only in exceptional cases where because of bona fide reasons and case of sufficient cause is made out, delay may be condoned but it cannot be condoned as a rule or merely on asking by the State Government. The State Government cannot be given any different treatment in the matter of limitation for filing of the appeals. This Court cannot be oblivious of the fact that delay has resulted in filing of the appeals because of negligence, inaction, omission or carelessness on the part of the officers and this act has resulted in dismissal of these appeals on the ground of limitation. So it is a case where the appeals of the State Government have been dismissed because of the negligence or carelessness on the part of the officers in discharge of their official duties and the State Government is within its competence to recover this amount of loss incurred by it, inclusive of the costs of litigation of filing of these appeals before this Court from the erring and defaulting officers.

6. The Chief Secretary, Government of Gujarat, Sachivalaya, Gandhinagar, is directed to hold an enquiry in these matters and all other matters where the appeals have been dismissed only on the ground of limitation and the amount of loss suffered by the State Government because of dismissal of these appeals as well as the costs of litigation incurred by the State Government in filing of these appeals and other matters be recovered from the erring and defaulting officers. This enquiry may be completed within a period of one year from the date of receipt of copy of this order. The result of this enquiry has to be reported to this Court. The office is directed to place this matter with the report of the Chief Secretary, Government of Gujarat, in the Court on 15th July, 1999.

7. This is a peculiar case where the respondents-claimants have been dragged into litigation before this Court by the appellant-State. They have acquired a right by the conduct of the appellant not to file an appeal within limitation. After 74 days of the expiry of limitation, the State Government has chosen to file appeals and when the notices have been issued, these persons were compelled to put appearance before the Court to contest the matters. They appeared through Advocate Mr. Amit C. Nanavati, who very fairly submitted that he has settled to charge Rs. 15,000/- as his professional fees in these appeals.

8. It is a case where these land holders whose lands have been compulsorily acquired, have been put to suffer this financial burden. This Court, in the case of Special Land Acquisition Officer v. Shantaben Widow of Chhitubhai and Ors. (supra), has noticed that if in such matters where amount of additional compensation is less than Rs. 15,000/-, the notice given of the Civil Application will disproportionately burden the claimants, which has exactly happened in this case also. In two matters, the amount of additional compensation awarded is only Rs. 350/- and Rs. 640/- and for this amount, the claimants have to incur about Rs. 450/- each case for contesting their claim.

9. I, therefore, consider it to be a fit case where the claimants should be awarded -the costs. Order accordingly. The State Government is directed to pay Rs. 450/- as costs of litigation in each case to the claimants-respondents. This amount of costs may also be recovered from the defaulting and erring officers of the Government.