

(2003) 04 OHC CK 0025
In the Orissa High Court
Case No : Civil Revision No. 25 of 2001

Sri Trilochan Behera and Others

APPELLANT

Vs

The Collector and Others

RESPONDENT

Date of Decision : 21-04-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Land Acquisition Act, 1894 — Section 18(3)
Limitation Act, 1963 — Section 5

Citation : (2003) 95 CLT 767

Hon'ble Judges : P.K. Tripathy, J

Bench : Single Bench

Advocate : S.B. Mohanta, for the Appellant; None, for the Respondent

Judgement

P.K. Tripathy, J.—Heard.

2. Petitioners' application is u/s 5 of the Limitation Act, 1963 (in short, "the Act"), praying for condonation of delay of 7 years and 150 days in preferring the civil revision.

3. Petitioners challenge to the order passed by the Special Land Acquisition Officer, Baripada in L. A. Case No. 33 of 1982. That order was passed on 17.6.1993. Admittedly, in the meantime petitioner approached this Court in writ jurisdiction on two occasions and thereafter he has filed this Civil Revision. Petitioners have not sought for protection u/s 14 of the Act. Even if such a ground is considered, then also there is unexplained delay in preferring the Civil Revision. Petitioners have taken plea of ignorance and rusticness as the ground for condonation of delay. When the petitioners could approach the courts of law for appropriate remedy more than once, therefore the plea of ignorance is a myth. There is no averment and proof that they were wrongly advised by any particular counsel or that, proper advice was not given to them for preferring Civil Revision. It is not the length of the period of delay which is vital but how the delay has been explained that is material. Even if a liberal interpretation is given,

then also the unexplained long delay of over seven years cannot be condoned in this case. If the delay of this nature shall be condoned, then that makes the existence of concerned provision in the Act meaningless either for construing the meaning of the term "sufficient cause" or providing specific period in concerned Article in the Act prescribing specific period towards limitation for filing a Civil Revision. The provision of law in the Sections is to be read harmoniously along with the provisions in the Schedule of the Act. Limitation is a valuable right in the hands of an opponent of the applicant to save themselves from the harassment and protracting of the litigation in indefinite manner for indefinite period. Procedural law is subservient to the ends of justice and that should be construed accordingly. Ends of justice does not mean a favour to the applicant even if he is not entitled for the same either under the law, equity or justice. Ends of justice means viewing the facts and circumstances and the provisions of law and granting a just relief or passing an appropriate order. As noted above, it is not the length of the period of delay which is material but it is how that delay has been explained is material to consider the question of condonation of delay. In this case, petitioners having utterly failed to explain the delay, merely offering the explanation of rustiness with no bonafide in that, is not sufficient to condone the delay of any period.

For the reasons stated above, this Court does not find any merit in the application u/s 5 of the Limitation Act. Accordingly, the delay is not condoned and the Misc. Case is dismissed,

5. Civil Revision No. 25, of 2001

In view of the above order, since the delay has not been condoned, therefore the Civil Revision is not admitted and accordingly the same is dismissed.