



2024 INSC 932

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) Diary No. 48636 of 2024

State of Madhya Pradesh

...Petitioner

Versus

Ramkumar Choudhary

...Respondent

ORDER

1. This Special Leave Petition is filed by the petitioner - State of Madhya Pradesh against the judgment dated 24.01.2024 passed by the Hon'ble High Court of Madhya Pradesh at Jabalpur¹ in Second Appeal No.2895 of 2019, whereby, the High Court dismissed the appeal on the ground that it was filed with inordinate delay of 5 years 10 months and 16 days and no satisfactory reason was adduced for the same.
2. We have heard Mr. Harmeet Singh Ruprah, learned Deputy Advocate General appearing for the petitioner, who submitted that the delay caused in filing the

¹ Hereinafter shortly referred to as "the High Court"

second appeal was well explained by the State and the same was not intentional. However, the High Court erroneously dismissed the second appeal on the ground of delay, without considering the merits of the case, wherein, valuable Government lands measuring total extent of 1,300 Hectare situated at Village Majhganwa, Tehsil and District Katni, were involved. He further submitted that though the trial Court passed the well-reasoned judgment dismissing the suit filed by the respondent herein, the first Appellate Court reversed the same and allowed the appeal in favour of the respondent, thereby affecting the right of the petitioner in respect of the said lands.

3. It appears from the materials on record that originally, the respondent filed Civil Suit No.79A/2011 before the Civil Judge, Class-2, Katni² seeking declaration of title and permanent injunction in respect of lands in Survey Nos.107, 108, 115, respectively measuring an extent of 0.36, 0.40, 0.54 hectare situated at village Majhganwa, Katni, stating that that he has been in possession of the said lands since 1970 and has been given leasehold right by the Settlement Officer in the year 1989. By judgment and decree dated 29.08.2013, the trial Court dismissed the said suit. Challenging the same, the respondent preferred Civil Appeal No.25A/2013 which was allowed by the 3rd Additional District Judge, Katni³ by judgment and decree dated 21.08.2014. Stating that the land in Khasra No.107 admeasuring 0.36 hectare was registered in the name of Bhu-Dan Board,

² Hereinafter shortly referred to as “the trial Court”

³ Hereinafter referred to as “the First Appellate Court”

Government of M.P. and the land in Khasra Nos.108 and 115 was reserved for Charokhar, Grass, Beed or Chara as per Nistar Patrak; and the respondent was not in possession of the said lands and leasehold right was not given to him by any settlement officer and no consent was also given in this regard, the State preferred Second Appeal No.2895 of 2019 along with an Interlocutory Application No.13106 of 2019 seeking to condone the delay of 5 years 10 months and 16 days in filing the same. The High Court declined to condone the delay and dismissed the second appeal by the judgment impugned herein.

4. Evidently, there was enormous delay occurred at every stage i.e., from the date of receipt of the judgment passed by the First Appellate Court to till the date of filing the second appeal by the State. The judgement was passed by the First Appellate Court on 21.08.2014 and the same was communicated by the Government Advocate representing the State to the Collector, only on 25.08.2015 i.e., after a delay of one year. Causing 3 months' delay, by letter dated 10.12.2015, the Collector informed to the Principal Secretary, Revenue Department, about the passing of the judgment against the State and preferring a second appeal against the same. Thereafter, the Law Department took three years' time and gave permission for filing appeal on 26.10.2018, which was sent to the Collector on 31.10.2018. Based on the said opinion, after preparation of the appeal papers, the State filed the second appeal only on 18.10.2019.

Hence, there was inordinate delay of 1788 days occasioned in preferring the second appeal, but the same was not properly explained by the State.

5. The legal position is that where a case has been presented in the Court beyond limitation, the petitioner has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In *Majji Sannemma v. Reddy Sridevi*⁴, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in *Ajay Dabra v. Pyare Ram*⁵ wherein, it was held as follows:

"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer [(2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified

⁴ 2021 SCC Online SC 1260

⁵ 2023 SCC Online SC 92

ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant.”

Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of *bona fides* is attributed to the party.

- 5.1. In *Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir*⁶, wherein, one of us (J.B.Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial

justice is not to cause prejudice to the opposite party. The relevant passage of the same is profitably extracted below:

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides

of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

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34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.

36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs."

Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly refused to condone the delay and dismissed the appeal by observing that such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State. Therefore, we are inclined to reject this petition at the threshold.

6. At the same time, we cannot simply brush aside the delay occurred in preferring the second appeal, due to callous and lackadaisical attitude on the part of the officials functioning in the State machinery. Though the Government adopts systematic approach in handling the legal issues and preferring the petitions/applications/appeals well within the time, due to the fault on the part of the officials in merely communicating the information on time, huge revenue loss will be caused to the Government exchequer. The present case is one such case, wherein, enormous delay of 1788 days occasioned in preferring the second appeal due to the lapses on the part of the officials functioning under the State, though valuable Government lands were involved. Therefore, we direct

the State to streamline the machinery touching the legal issues, offering legal opinion, filing of cases before the Tribunal / Courts, etc., fix the responsibility on the officer(s) concerned, and penalize the officer(s), who is/are responsible for delay, deviation, lapses, etc., if any, to the value of the loss caused to the Government. Such direction will have to be followed by all the States scrupulously.

7. There is one another aspect of the matter which we must not ignore or overlook. Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to

file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. (See: *Ajit Singh Thakur Singh and Another v. State of Gujarat*, AIR 1981 SC 733).

8. Accordingly, we dismiss this Special Leave Petition with costs of Rs.1,00,000/- to be deposited by the State within a period of two weeks from today with the Supreme Court Mediation Centre and file proof thereof. If the said amount, as directed, is not deposited by the State, the Registry shall take necessary steps for recovery of the same, in accordance with law.
9. We have deemed it necessary to impose costs to send a stern message that the States must not misuse the Supreme Court's time by filing appeals against the well-reasoned and conscious decisions rendered by the High Courts without proper grounds.

10. Pending application(s), if any, shall stand disposed of.

.....J.
(J. B. PARDIWALA)

.....J.
(R. MAHADEVAN)

New Delhi.
November 29, 2024.