

Union of India Vs. Amar Singh and Ors

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Court : Delhi

Decided On : Jan-06-2015

Judge : V.K.Shali

Appellant : Union of India

Respondent : Amar Singh and Ors

Judgement :

* HIGH COURT OF DELHI AT NEW DELHI + LA.Appeal Nos.02/2015, 03/2015 & 04/2015 Decided on :

6. h January, 2015 + LA.APP. 2/2015 UNION OF INDIA Appellant Through: Ms.Jyoti Tyagi, Proxy Counsel for Mr.Yeeshu Jain, Adv. versus AMAR SINGH & ORS Respondent Through + LA.APP. 3/2015 UNION OF INDIA Through: Appellant Ms.Jyoti Tyagi, Proxy Counsel for Mr.Yeeshu Jain, Adv. versus SHIVALIK DAIRY (P) LTD & ANR Respondent Through + LA.APP. 4/2015 UNION OF INDIA Through: Appellant Ms.Jyoti Tyagi, Proxy Counsel for Mr.Yeeshu Jain, Adv. versus RAJ RANI & ANR Through Respondent CORAM: HONBLE MR. JUSTICE V.K. SHALI V.K. SHALI, J.

(ORAL) LA Appeal No.2/2015 CM No.77/2015 (For Condonation of Delay of 275 days in filing the appeal) CM No.78/2015 (For Condonation of Delay of 174 days in re-filing the appeal) LA Appeal No.3/2015 CM No.80/2015 (For Condonation of Delay of 312 days in filing the appeal) CM No.81/2015 (For Condonation of Delay

of 178 days in re-filing the appeal) LA Appeal No.4/2015 CM No.101/2015 (For Condonation of Delay of 229 days in filing the appeal) CM No.102/2015 (For Condonation of Delay of 173 days in re-filing the appeal) 1. These are three land acquisition appeals being LA (A) Nos.02/2015, 03/2015 & 04/2015. In all the three appeals, there are two sets of applications, one is for condonation of delay in filing the appeal and the other is for condonation of delay in refiling the appeal.

2. In LA(A) No.02/2015, there is a delay of 275 days in filing the appeal and a delay of 174 days in refiling the appeal. In LA(A) No.03/2015, there is a delay of 312 days in filing the appeal and a delay of 178 days in refiling the appeal and in LA(A) No.04/2015, there is a delay of 229 days in filing the appeal and a delay of 173 days in refiling the appeal.

3. In all the three cases, the explanation furnished for the delay is more or less on the same lines except that the date of approval having been granted by the Principal Secretary for filing the appeal and the communication thereof to the Naib Tehsildar are different. For the purpose of this order, the reference to the applications filed in LA (A) No.02/2015 for condonation of delay in filing and refiling the appeal is only made.

4. In LA (A) No.02/2015, it has been stated that the impugned judgment was passed on 05.03.2013 and the certified copy of the same was received on 25.03.2013. It was forwarded to the Deputy Legal Advisor who advised on 03.04.2013 that the appeal be preferred. The matter was approved by the Principal Secretary, Land and Building on 05.04.2013 and on 16.04.2013 the matter was referred to the Naib Tehsildar/Patwari for taking appropriate action. After giving these dates, it has been stated that it took some time to send the papers to the panel lawyer and thereafter the files got mixed up in the office of the appellant which came to be bifurcated in various districts and consequently the papers could be sent to the counsel only in November, 2013. Thereafter no explanation has been furnished by the appellant as to what was done for six months and as to why the appeal could not be filed knowing well that the appeal has to be preferred within a period of 90 days. Much time has already elapsed.

5. It has not been stated in the application that these facts which have been averred by the petitioner constitute sufficient cause. A cause is stated to be sufficient for the purpose of condonation of delay only when it is of such a nature that it is beyond the control of a party. In the instant case, no doubt that right up to the date of dispatch to the Patwari on 16.04.2013, the appellant acted with utmost diligence, however, the same pace has not been maintained by them after that date also which could have resulted in filing of the appeal at the earliest possible time. On the contrary, the appellant seem to have taken the things so casually that they slept over the matter for almost a year before the appeal was filed. Not only, the casual and cavalier approach of the appellant is reflected in their delayed filing of the appeal, but even after the objections having been raised by the Registry, the appellant chose to remove these objections after a delay of 174 days. The High Court Rules clearly lay down that in case objections are raised by the Registry and the papers are collected by a party, the objections must be removed within a period of 30 days from the collection of the papers and in case the same is not done, then the delay in refiling would be treated as delay in original filing of the appeal itself. On the basis of the same reasoning, the delay of 174 days in refiling the appeal cannot be treated as delay in refiling the appeal, but will have to be treated as a delay in original filing of the appeal and if both the delays i.e. the delay in filing the appeal and the delay in refiling the appeal are added, it comes to a delay of 449 days, which is a considerable delay. The law of limitation does not allow two sets of parameters for the purpose of filing of an appeal, one for a private party and the other for the Government. No doubt, there are judgments which show some amount of latitude to be given to a Government organization in filing the appeal but so far as the condonation of delay is concerned some reasonable explanation must be available on record. But, in the instant case, even on that score also, neither any explanation has been furnished by the appellant nor it has been stated that the reasons for the delay constituted sufficient cause which would persuade the court to exercise discretion in favour of the appellant.

6. In my considered opinion, the appellant has not been able to show that the reasons which have been given by them constitute sufficient cause within the meaning of Section 5 of the Limitation Act, 1963 so as to condone the delay and entertain the appeal. Similarly, in LA(A) Nos.3/2015 & 4/2015, the composite

delay, both in filing and refiling the appeal, is 490 and 402 days which also suffers from similar vice.

7. I accordingly dismiss these two sets of applications filed in LA (A) Nos.02/2015, 03/2015 & 04/2015 seeking condonation of delay in filing and refiling the appeal. Since the delay applications have been dismissed, the appeals are also dismissed as being barred by time. V.K. SHALI, J JANUARY06 2015/dm

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