

Union of India Vs. Manqat

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Court : Delhi

Decided On : Dec-02-1988

Reported in : 37(1989)DLT123

Judge : N.N. Goswamy and; S.B. Wad, JJ.

Acts : [Limitation Act, 1963](#) - Sections 5

Appeal No. : Civil Miscellaneous Appeal No. 543 of 1988 and Regular First Appeal No. 416 of 1988

Appellant : Union of India

Respondent : Manqat

Advocate for Pet/Ap. : H.K. Saxena, Adv

Judgement :

S.B. Wad, J.

(1) --THIS is a land acquisition Regular First Appeal filed by the Union of India against the order of the District Judge. The Land Acquisition Collector had awarded Rs. 4.000.00 per bigha. The District Judge raised it to Rs. 12.000.00 per bigha. the contention in the appeal is that the enhancement should not have been beyond Rs. 7,000.00 . The award was made by the Collector in this case on 13.11.1981. Another question raised in the appeal is whether the additional

benefits under section 2-(l) (after the amendment) can be given in the award rendered prior to the amendment. On the second question large number of appeals were filed in the Supreme Court. They are already heard and the judgment is awaited.

(2) There is a delay of eighty days in filing the appeal. The averments in the application for condensation of delay under Section 5 of the Limitation Act read with Section 151, Civil Procedure Code are ; (1) That the limitation for the above noted appeal expired on 8th July 1987, (2) that there is delay of eighty days in filing the appeal, (3) that the delay in filing the appeal has occasioned due to the fact that it took sometime for the concerned Department, that is. Land Acquisition Collector, Tis Hazari, Delhi, to furnish the relevant documents and arrange for the court-fees, and (4) that the delay in filing the appeal is bona fide and not intentional.

(3) We are not satisfied with the cryptic and routine Explanation viz. that the Department took time to 'furnish the relevant documents' and 'to arrange for the court-fees'. We have decided to write a reasoned judgment in this matter because there is not an isolated case as hundreds of such appeals are being filed in this court in which invariably there is a delay in filing the appeals. There is hardly any satisfactory Explanation furnished, nor any particulars in regard to the dates and stages of consideration are mentioned in the applications under Section 5 of the Limitation Act.

(4) The counsel for the appellant has, however, relied on the decisions of the Supreme Court reported in Mewa Ram (deceased by L. Rs.) and others v. State of Haryana : [1986]3SCR660 , Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others : (1987)ILLJ500SC and G. Ramegowda, Major etc. v. The Special Land Acquisition Officer. Bangalore : [1988]3SCR198 . has no bearing on the present case. In that case the Supreme Court held that claimants cannot plead their own laches as sufficient ground for condensation of delay. In Air 1983 Supreme Court 1353 the Collector had awarded Rs. 1,000.00 per kanal while the District Judge enhanced it to Rs.-8,000.00 per kanal. There was only four days delay in filing the appeal. -The Jammu and Kashmir High Court did not condone

the delay and dismissed the Government's appeal. The Supreme Court held that an important question relating the principles of valuation was involved in the appeal and held that the High Court should have condoned the delay of four days. The Supreme Court further held that there is no warrant for according a step motherly treatment when the 'State' is the applicant praying for condensation of delay. The doctrine of equality before law demands that all litigants including the State as litigant, are accorded the same treatment and the law is administered in an even-handed manner. In : [1988]3SCR198 for a land which was purchased in 1962 for Rs. 7,000.00 the Collector awarded Rs, 58.000.00 per acre and it was raised to Rs, 1,45,200.00 by the District Judge. Section 4 notification was issued on 2.3 1963, that is, just one year after the original purchase. Before the High Court the Government had urged that the Government Pleader in charge of the filing, of the appeal had played fraud on the Government by not filing the appeal in time. The Karnataka High Court had accepted the contention of the Government, as Government was put to loss of crores 125 of rupees by the said fraud of the Government Pleader in number of cases.. The Karnataka High Court condoned the delay in all the cases. In the decision cited above the Supreme Court found that there was no ground to interfere with the discretion exercised by the High Court in condoning the delay. In this judgment the Supreme Court has reviewed number of earlier decisions. The court again emphasised on the substantial justice rather than the technical considerations in the appeals. The court further stated that the Law of Limitation is same for the private citizens and for the Government. It was then said that certain amount of latitude is not impermissible due to procedural delays implicit in the very nature of the Governmental functioning. It was also observed that it would, perhaps, be unfair and unrealistic to put Government and private parties on the same footing in all respects in such matters. With respect to the two cases referred to above, namely, : (1987)ILLJ500SC , on facts, relate to extreme cases and are not the ordinary run cases of delays filed by hundreds in this court, In the first mentioned case the court was naturally concerned with the fact that the upward revision of compensation made by the District Judge was 800 per cent and the delay was a nominal delay of four days. So also the decision in 1988 Sc 897 is an exceptional and peculiar case of its own. A large-scale fraud was practiced by the Government Pleaders in charge of land

acquittal matters and disproportionately large enhancement was made in the compensation by the Collector and the District Judge resulting into loss of crores of rupees to the State Government. The Supreme Court was thus concerned with isolated cases of said abetments. What we are facing in this court is a spate of delayed appeals without any proper and convincing Explanation or even an attempt in doing so. It is a common experience of Benches of this court that the condensation applications are in a cyclostyled form and only the dates and days are filled in hand. The stay applications are also mechanically drafted and are in one standard cyclostyled form. Usually, the appeals are filed with defects. After the Registry points out the defects, the defects are not removed for months together. We do not think that the Supreme Court judgments can be usefully availed of by the Union of India in the colossal situation of negligence and delays as we find in this court. In fact, it appears, that the liberal approach of the higher courts and the understanding of the difficulties of the Government departments shown by the courts have not been appreciated in its proper perspective by the Government departments. Nobody in the Government Department feels any responsibility or takes any responsibility for the delay caused in the movement of files. There is no conscious and systematic effort to keep the deadline of limitation in view and to speed up the disposal at various stages. If a serious effort is made in the Government Departments to fix the responsibility on the persons causing delay the present sorry state of affairs can be rectified substantially within short time. Occasionally, important questions of law or principles of compensation or heavy financial stakes are involved in land acquisition matters. The agencies of the Government involved in the acquisition, unfortunately, seems to be completely oblivious of these considerations. In some cases there is great urgency of acquisition of land for urgent developmental projects. They are likely to be frustrated by the habitual negligence of Government departments.

(5) The practical problem in the day to day cases is how to reconcile the two principles laid down by the Supreme Court, namely-(i) the doctrine of equality before law demands that all litigants including the State as litigant should be accorded the same treatment and the law is administered in an even-handed manner, and (ii) it would perhaps be unfair and unrealistic to put Government and private parties on the same footing in all respect* in such matters. The Supreme

Court in the judgments referred to above had observed that the State should not be given step-motherly treatment. If all the petitions of condensation of delay filed in the large number of cases are to be accepted, as requested by the Government Advocate, a citizen would naturally complain that the State is being given a 'son-in-law' treatment. In *State of M.P. & Ors. v. Vishnu Prasad Sharma and others*. Air 196 Sc 1593 the three Judges Bench of the Supreme Court observed : 'In interpreting these provisions the court must keep in view on the one hand the public interest which compels such acquisition and on the other the interest of the person who is being deprived of his land without his consent.' The Supreme Court further held : 'the provisions of the statute must be strictly construed as it deprives a person of his land without his consent.' A golden rule for reconciliation of these conflicting considerations would be to use the discretion with commonsense. Extreme positions of either not condoning' the delay howsoever negligible it may be or to condone the delay howsoever large and unjustifiable it may be should be avoided. The discretion has to be exercised on the basis of the facts of each case with commonsense and public interest in view.

(6) Many times the delay is tried to be explained by pleading that there was no adequate staff in the Office of the Land Acquisition Collector or in the office of Government Advocates. The property worth crores of rupees of citizens is acquired by Government. It must find sufficient money for appointing adequate staff. Even the most liberal compensations awarded by the courts do not bear any favorable comparison with the realistic market value in open market (and not-so-an open market). On acquisition of land the D. DA. earns fabulous sums by public auctions which are at least 1000 per cent more than the compensation paid to the owners of the land. There is, thereforee, no justification for not providing adequate staff. In public interest it is necessary to create an atmosphere of earnestness and responsibility in the administration of the provisions of Land Acquisition Act.

(7) We are not satisfied with the Explanationn in the application for condensation of delay filed by the appellant under Section 5 of the Limitation Act. We, thereforee, dismiss that application The appeal is barred by limitation and is, thereforee, dismissed.

