

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL APPLICATION NO. 1522 of 2021****In F/FIRST APPEAL NO. 19722 of 2021****With****R/CIVIL APPLICATION NO. 1523 of 2021****With****R/CIVIL APPLICATION NO. 1524 of 2021****With****R/CIVIL APPLICATION NO. 1525 of 2021****With****R/CIVIL APPLICATION NO. 1526 of 2021****With****R/CIVIL APPLICATION NO. 1527 of 2021****With****R/CIVIL APPLICATION NO. 1528 of 2021****With****R/CIVIL APPLICATION NO. 1529 of 2021****With****R/CIVIL APPLICATION NO. 1530 of 2021****With****R/CIVIL APPLICATION NO. 1531 of 2021**

SPL LAQ OFFICER UNIT NO 1**Versus****NATVARBHAI BHIKHUBHAI**

Appearance:

MR MANRAJ BAROT, AGP for the Applicant(s) No. 1,2

MR. AAMIR S PATHAN(7142) for the Respondent(s) No. 1

RULE SERVED for the Respondent(s) No. 2

CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**Date : 30/08/2022**
COMMON ORAL ORDER

1. The present applications are filed seeking condonation of 2484 days in filing the captioned first appeals.

2. Learned AGP has submitted that delay has been appropriately explained in the applications and

it cannot be said that the State authorities were totally ignorant in filing the appeals and due to the administrative reasons, as mentioned in the present applications, delay has occurred and hence, the same may be condoned.

3. Per contra, learned advocate Mr.Pathan appearing for the respondents has submitted that the applicants-State authorities were not diligent enough in filing the appeals and if the details provided in the present applications are seen, such huge delay of more than 2000 days cannot be condoned.

3.1 In support of his submissions, learned advocate Mr.Pathan has placed reliance on judgement of the Apex Court dated 16.12.2021 in the case of Majji Sannemma @ Sanyasirao Vs. Reddy Sridevi and Ors. passed in Civil Appeal No.7696 of 2021, in the case of Lingeswaran ETC. Vs. Thirunagalingam, 2022 LiveLaw (SC) 227 and on the judgement dated 17.12.2019 passed in Civil Appeal Nos.9488-9489 of 2019 (in the case of University of Delhi Vs. Union of India and Ors.) and the judgement of the Division Bench of this Court dated 01.02.2013 passed in Civil Application No.52 of 2013.

3.2 Finally he has submitted that the opponents-claimants have already accepted the judgement and award passed by the reference Court and the claim is not challenged by them and any interference in the said judgements and awards at this stage would result into hardships to the opponents-claimants and hence, the delay may not be condoned.

4. Heard the learned advocates for the respective parties and also perused the documents as pointed out by them.

5. The facts narrated in the present applications suggest that the judgements and awards were passed by the reference Court in the Reference Case Nos.556 to 565 to 2010 on 21.08.2012. The certified copies of the same were supplied on 22.08.2012 and received by the District Government Pleader Office on 02.03.2013. The concerned department of the State Government also received the certified copies on 07.06.2013. After a period of six months, the concerned department received opinion from Sardar Sarovar Narmada Nigam Ltd. vide letter dated 01.01.2014 and no information has been given as stated in the applications or explanation in the applications about nature of such opinion. It is

stated in the applications that thereafter, a note was forwarded by the Deputy Section Officer of the Narmada Water Resources and Water Supply Department to the higher up on 06.01.2014. It is stated that the Deputy Secretary verified the request and signed the same on 06.01.2014 and approved the request to challenge the judgement and award on 10.01.2014. The file was then forwarded to the Legal Department on 10.01.2014 for necessary approval. Accordingly thereafter, the Special Land Acquisition Officer prepared and sent the documents to the Government Pleader Office to prepare a draft appeal on 07.02.2014. The Government Pleader Office returned the aforesaid papers to the concerned officer to rectify the name of the claimant in Land Acquisition Reference Case No.558 of 2010 vide letter dated 21.02.2014. By the letter dated 07.03.2014, the concerned officer sent the documents to the Office of District Government Pleader to take necessary steps and file Misc. Application to rectify the name of the claimant in Land Acquisition Reference Case No.558 of 2010. Thereafter, vide letters dated 18.12.2015, 30.11.2016, 15.04.2017, 13.07.2017 and 31.01.2018, the Office of the Government Pleader was remanded to take necessary steps. Thus, from

07.03.2014 to 31.01.2018, 4 years are wasted by the respondent-State authorities only on taking necessary steps for rectifying the name of one claimant in Land Acquisition Reference Case No.558 of 2010. It is thereafter, stated that rectified order was received by the office of District Government Pleader however, no specific details of the rectified order is mentioned.

6. In paragraph No.13 of the application being Civil Application No.1522 of 2021, it is mentioned that the Special Land Acquisition Officer received copy of the rectified judgment and award in Land Acquisition Reference Case No.558 of 2010 vide letter dated 11.10.2019. Thereafter, it appears that the said order was sent to the Office of Government Pleader of High Court on 29.11.2019 however, the same remained in dormant stage and was presented on 25.02.2021, after almost a period of one year. Thus, the application is blissfully silent with regard to the explanation of the delay occurred of more than one year i.e. from 29.11.2019 to 25.02.2021.

7. The conspectus of the aforesaid dates will suggest that the applicant-State authorities are absolutely negligent in pursuing the proceedings. As mentioned hereinabove, almost four years are

wasted in the District Government Pleader Office in seeking rectification order in only one case being Land Acquisition Reference Case No.558 of 2010 with regard to name of the claimant and more than one year has been wasted, after the papers were received by the Government Pleader Office of the High Court. No explanation in this regard has been tendered in the applications.

8. In the case of *Lingeswaran ETC. (supra)*, recently the Apex Court, while confirming the observations made by the High Court rejecting the condonation of delay of 467 days has observed thus:

*"5. We are in complete agreement with the view taken by the High Court. Once it was found even by the learned trial Court that delay has not been properly explained and even there are no merits in the application for condonation of delay, thereafter, the matter should rest there and the condonation of delay application was required to be dismissed. The approach adopted by the learned trial Court that, even after finding that, in absence of any material evidence it cannot be said that the delay has been explained and that there are no merits in the application, still to condone the delay would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches. At this stage, the decision of this Court in the case of *Popat Bahiru Goverdhane v. Land Acquisition Officer*, reported in (2013) 10 SCC 765 is required to be referred to. In the said decision, it is observed and held that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on*

equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same.

*5.1 In the case of **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai, (2012) 5 SCC 157**, in paragraph 14, it is observed and held as under:*

"The law of limitation is founded on public policy. The limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature. At the same time, the courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation."

6. In view of the above and for the reasons stated above, we are in complete agreement with the view taken by the High Court. The Special 4 Leave Petitions stand dismissed. Pending application, if any, also stands disposed of."

9. The Apex Court has held that the law of limitation has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay and the idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature. In the present case, since there is no cogent and palatable reason put forward by the applications for explaining delay as

mentioned hereinabove, the applications require to be rejected. It is noticed by this Court that the claimants have already accepted the amount of compensation and in wake of the fact that the explanation is not properly tendered and from the tenor of the applications, it is manifest that the applicant-State authorities have not taken the proceedings seriously in its true sense and slept over their rights hence, the applications seeking condonation of huge delay of 2484 days do not merit acceptance.

10. The present applications are accordingly rejected. Rule is discharged.

11. As a sequel, the captioned first appeals also stand rejected and civil applications for stay would not survive in view of the order passed in the present applications.

12. Registry to place a copy of this order in each of the connected matters.

Sd/-

(A. S. SUPEHIA, J)

NVMEWADA