

**HIGH COURT OF TRIPURA
AGARTALA**

IA No.4 of 2024

In LA APP No.2 of 2024

The Deputy Chief Engineer (Construction-1)

---Applicant(s)

Versus

Sri Mantu Das and Ors.

----Respondent(s)

For Applicant(s)	:	Mr. B. Majumder, DSGI.
For Respondent(s)	:	Mr. S. Bhattacharjee, Adv. Mr. K. De, Addl. G.A.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

30/09/2024

Learned DSGI Mr. B. Majumder is present for the appellant-applicant.

Mr. S. Bhattacharjee, Learned counsel is present for the respondent-claimants and Mr. K. De, Learned Addl. G.A. is present for the L.A. Collector.

This present application is filed under Section 5 of the Limitation Act for condoning the delay of 983(nine hundred and eighty three) days in preferring this appeal filed against the judgment and award dated 31.08.2019 delivered by Learned LA Judge, West Tripura, Agartala in connection with Case No. Misc. L.A.207 of 2014.

In course of hearing Learned counsel for the appellant-applicant submitted that the grounds of delay have been clearly mentioned in para-3 of the application because in preferring the appeal 715 days was consumed due to Covid pandemic and the said period of 715 days shall be excluded for the purpose of limitation and in addition to that due to some procedural formalities some more time was consumed for which in total 983 days were delayed in preferring the appeal. So Learned counsel urged for allowing the said application and further submitted that if the delay is not condoned then the appellant-applicant shall be highly prejudiced.

On the other hand, Learned counsel Mr. S. Bhattacharjee for the respondents-claimants in support of his objection submitted that the delay in regard to the order of the Hon'ble Supreme Court may be considered. But in respect of other days the grounds laid by the appellant-applicant were not properly explained for which the same cannot be considered. Learned counsel further submitted that before the execution proceeding which is pending for adjudication the present appellant-applicant on repeated occasions sought time to meet up the payments but there was not a single whisper on their part that the present appellant-applicant is going to file an appeal challenging the said judgment. Now with a view to delay the process of payment of decretal amount this appeal is filed with a vague application for condonation of delay to defer the payment of compensation.

Learned counsel further drawn the attention of the court the order dated 05.03.2024 delivered by this High Court in connection with Case No.IA No.01 of 2023 in LA APP No.9 of 2024. Referring the same Learned counsel further submitted that in the last part of the order this High Court has clearly mentioned that the conduct of the appellant is similar other cases. So Learned counsel finally urged for dismissal of this application with costs.

This court has heard the arguments of both the parties and gone through the application filed by the appellant, the objection filed by the respondent-claimants and also the order delivered by this High Court in the aforementioned case. After perusal of the application for condonation of delay it appears that the period counted for exclusion of delay due to Covid pandemic may be considered. But the other period as mentioned in this application are not at all satisfactory. It is the admitted position that the execution proceeding is pending for disposal and from the order sheet submitted by Learned counsel for the claimant-respondents it

appears before the Learned executing court sought accommodation to make payment of compensation. But the Learned counsel for the appellant-applicant did not utter a single word that they were going to prefer an appeal challenging the said judgment of the Learned L.A. Judge.

This court has also seen the order of the High Court dated 05.03.2024 in case No. IA No.01 of 2023 in LA APP No.9 of 2024. In the last part this High Court gave the following observation:

"So it is seen from the record that in all proceedings, the N.F. Railways has only prayed for time to make the payment to the claimants and to the surprise of this Court, suddenly, the appellant-NF Railways are before this Court by way of an appeal. This Court is not in a position to appreciate the manner in which the N.F. Railways discharging their responsibilities against the claimants. In so far as the condone delay application is concerned, it is seen from the record that no cogent reason has been explained in terms of Section 5 of the Limitation Act. As such, the condone delay application is dismissed. As a sequel, connected LA. App. No.9 of 2024 and any other mischievous application(s), if any, also stand dismissed and thus disposed of."

So after hearing both the sides and after going through the relevant papers and also on perusal of the order of this High Court it appears that the conduct of the present appellant-applicant was not at all satisfactory and the grounds set forth in this application for condonation of delay are not at all satisfactory to grant any relief to the appellant-applicant at this stage. Accordingly, the application for condonation of delay in preferring the appeal bears no merit and the same stands dismissed accordingly as the appellant-applicant has failed to explain the delay in preferring the appeal properly and also there is no proof of sufficient cause in the application filed by the appellant-applicant.

With this observation this IA stands disposed of.

JUDGE

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