



1

WA-899-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 20th OF NOVEMBER, 2025

WRIT APPEAL No. 899 of 2022

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

UMESH KUMAR TIWARI AND OTHERS

.....
Appearance:

Shri B.D. Singh - Deputy Advocate General for the appellants/State.

Shri Sarabvir Singh Oberoi - Advocate for the respondent No.1.
.....

ORDER

Per. Hon'ble Shri Justice Vinay Saraf, J.

1. Instant intra court appeal is preferred by the appellants assailing the order dated 23.08.2011 passed in WP No.4119/1998, whereby the petition preferred by the respondent No.1 - Umesh Kumar Tiwari was allowed.

2. The present appeal has been preferred after a delay of almost 11 years. IA No.9997/2022 is preferred for condonation of delay. On 10.08.2022, time was granted the appellants to file better affidavit which was filed later on.

3. Heard on IA No.9997/2022. It is submitted by the learned Deputy Advocate General that writ petition was preferred by respondent No.1 in respect of the subject land seeking quashment of the order of competent Urban Land Ceiling Authority, Jabalpur declaring survey No.21 of village



purwa admeasuring 2.347 hectares as surplus land as also the allotment of the same land to the MP Housing Board. The writ petition was allowed by order dated 23.08.2011 on the ground that the possession of land was not taken by the State of MP and the proceedings were abated in view of Section 4 of the Repeal Act, 1999. During this period, the respondent No.2/ MP Housing Board preferred Writ Appeal No.1244/2011 challenging the order dated 23.08.2011 passed in WP No.4119/1998 which was dismissed by order dated 10.12.2018 by the coordinate Bench and the order passed by learned writ court was upheld. In the said writ appeal the appellants were also impleaded as respondents and learned Government Advocate appeared on behalf of the appellants.

4. After dismissal of the writ appeal preferred by the MP Housing Board, the order passed by the learned Single Judge in WP No.4119/1998 on 23.08.20011 was challenged by the appellants in Review Petition No.876/2019 which was dismissed by order dated 18.04.2022. Said order is also under challenge in the present appeal.

5. Learned Deputy Advocate General submits that the delay occurred due to following the procedure prevailing at that time for obtaining approval of the concerning department/Law and Legislative Affairs Department for filing the writ appeal and therefore the same could not be filed earlier. In the better affidavit, it is mentioned that between 23.08.2011 to 28.11.2013 several correspondence took place among the departments for preferring the appeal however, thereafter nothing was done till the dismissal of the writ appeal preferred by the MP Housing Board. Upon the legal opinion given by



the office of Advocate General a review petition was filed which was dismissed on 18.04.2022. Thereafter the instant appeal has been filed.

6. It is settled position of law that if a party is found to be negligent, inactive or not diligent, delay cannot be condoned. Appellant failed to provide convincing and sufficient reason for condonation of delay and no explanation offered for not taking any action between 2013 to 2017. The explanation offered by appellants are not convincing. Supreme Court in *Maniben Devraj Shah vs. Municipal Corporation of Brihan Mumbai (2012) 5 SCC 157* has held as under;

"23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost."

24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.

25. In cases involving the State and its agencies/instrumentalities, the court can take note of the fact that sufficient time is taken in the decision-making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest."

7. Further, Supreme court in *Popat Bahiru Govardhane and another*



vs. Special Land Acquisition officers and Others (2013) 10 SCC 765 has

held as under;

"16. It is a settled legal proposition that 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. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

17. In view of the above, we are of the candid view that none of the submissions advanced on behalf of the appellants is tenable. As the matters are squarely covered by the abovereferred to judgments, these appeals are devoid of any merit. The cases do not warrant any interference. The appeals are, accordingly, dismissed."

8. In *Balwant Singh vs. Jagdish Singh and Ors. (2010) 8 SCC 685*,

Supreme Court has held as under;

"25. We may state that even if the term "sufficient cause" has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of "reasonableness" as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."

9. After due consideration of the reasons assigned by the appellants in



the application filed for condonation of delay, the affidavit and the additional affidavit filed in support of the application, we are of the view that the appellants have failed to explain the inordinate delay of about 11 years in filing the present writ appeal specially in view of the fact that the appellants were having the knowledge of the impugned order. The appellants after dismissal of the writ appeal preferred by the MP Housing Board, for the purpose of challenging the impugned order once again preferred the instant writ appeal on behalf of the State of MP. No sufficient ground is made out to condone the delay occurred in preferring the writ appeal. Impugned order has already been examined by the coordinate Bench and writ appeal preferred by the MP Housing Board has already been dismissed. Accordingly, IA No. 9997/2022 is dismissed.

8. Consequently, the writ appeal is also *dismissed*.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

Akm