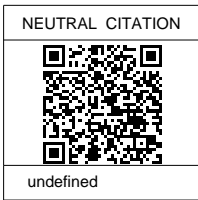


**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 1405 of
2024****In F/FIRST APPEAL NO. 7680 of 2024****With****R/CIVIL APPLICATION NO. 1409 of 2024****In****F/FIRST APPEAL NO. 7689 of 2024****With****R/CIVIL APPLICATION NO. 1422 of 2024****In****F/FIRST APPEAL NO. 7681 of 2024****With****R/CIVIL APPLICATION NO. 1451 of 2024****In****F/FIRST APPEAL NO. 7701 of 2024****=====**
PATEL CHIMANBHAI GOVINDBHAI**Versus****STATE OF GUJARAT**
=====**Appearance:****MR MANISH S SHAH(5859) for the Applicant(s) No. 1****MR.MEET THAKKAR AGP ADVANCE COPY SERVED T for the
Respondent(s) No. 1**
=====**CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI****Date : 06/05/2024****COMMON ORAL ORDER**

1. The captioned Civil Applications are filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 644 days in Civil Application Nos.1451, 1409 & 1422 of 2024 and delay of 594 days in Civil Application No.1405 of 2024 caused in preferring the respective



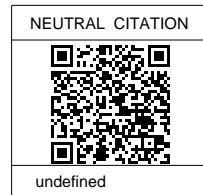
captioned First Appeals.

2. Heard learned advocates for the parties.

3. Learned advocate for the applicants has submitted that the captioned First Appeals are arising out of the Judgment and Award passed by the learned Principal Senior Civil Judge, Bayad, Dist. Aravalli on 06.08.2021.

3.1 It is further submitted that the applicant/s are poor agriculturists and the lands were acquired for the purpose of irrigation Scheme. Since the acquiring body awarded less amount of compensation, the applicant/s preferred Land Acquisition Reference case under Section 18 of the Land Acquisition Act, 1894. It is further submitted that the Award came to be passed on 06.08.2021 and the amount was paid as per the Award on 14.10.2022 to the applicant/s.

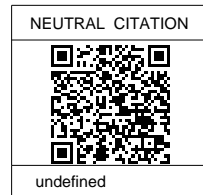
3.2 It is further submitted that the Certified Copy of the Judgment and Award was applied on 22.09.2022. The Certified Copy was ready for delivery on 08.10.2022 and the Certified Copy was received by the applicant/s on



13.10.2022. Thereafter because of illness in the family of the applicant/s, the papers and Certified Copy of the Judgment and Award, could not be given to the Advocate in time, which has resulted into delay. It is further submitted that the delay is not intentional and there was no lethargy on the part of the applicants in approaching this Court.

4. Per contra, learned Assistant Government Pleader, has vehemently objected and submitted that the Judgment and Award passed on 06.08.2021, and after the period of limitation was over, Certified Copy of the Judgment and Award was applied on 22.09.2022. Evenafter received the Certified Copy of the judgment and award on 13.10.2022, the applicants remained silent and presented the appeal/s on 04.03.2024. The application for condonation of delay came to be filed on 06.02.2024 which was registered on 15.03.2024. Thus, the applicant/s took undue time in preferring the appeal/s.

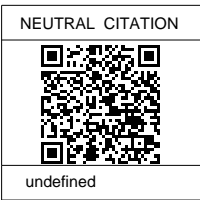
4.1 It is further submitted that after receiving the amount of compensation, the applicant/s did not file any application for challenging the order of Land Reference Court. Thus, the Award has attained finality. Since there is



a clear inaction on the part of the applicants, the delay may not be condoned.

4.2 It is further submitted that illness in the family members of the applicant/s is too vague and such contention is not supported by any medical evidence. It is further submitted that the vague and general averments made in the application, which cannot be called sufficient cause.

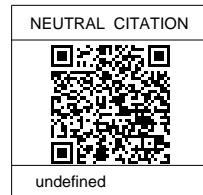
5. I have considered the submissions and the averments made in the applications. The undisputed fact which is culled out from the record is that, the judgment and award came to be passed on 06.08.2021. As per the say of the applicant/s, the amount was received by the applicant/s on 14.10.2022. The Certified Copy was applied on 22.09.2022 which is much after the period of limitation got expired for filing the First Appeal/s. Though, the Certified Copy was received by the applicant/s on 13.10.2022, thereafter also the applicants remained idle and inactive in preferring the Appeals. In the captioned applications, there is no satisfactory explanation for remaining inactive after receiving the Certified Copy on 13.10.2022. In the application in para 3 which is apt to



reproduce to decide this application:-

“3. The applicant says that in the meantime claimants of LAR No.11 of 2019 passed by Ld. Principal Senior Civil Judge, Bayad, Dist.: Aravalli below Exh.51 on 27.01.2023 for the village Aankodiya (which is nearby village to Land of Village Fatepur) wherein the Ld. Reference Court has awarded Rs.342.50/ per Sq. Mtr. as compensation and therefore also, the applicant is entitled to the same amount of award in the interest of justice. All these villages are nearby villages to the land in question and therefore, the applicant is also entitled to the same compensation.

6. Thus, it can be seen that after the decision in another LAR No.11 of 2019 passed in nearby village to the land in question, applicants were tempted to challenge the decision of learned Reference Court and that to after receiving the compensation on 14.10.2022. Such conduct is highly deprecated. The applicant/s though may be a poor agriculturists are not supposed to claim more compensation after accepting the original award. Once the Award has been accepted by the original claimant eventhough reserving the right to claim enhanced/more compensation, applicants are precluded from claiming further compensation under the same acquisition proceedings.



7. The record reveals that the affidavit for condonation of delay was sworn on 06.02.2024 before a Notary and it was presented on 04.03.2024. On 15.03.2024, the applications came to be registered while deciding the applications for condonation of delay only the period of delay is not relevant factor but the conduct and approach of the applicant/s are also required to be seen.

8. It would be appropriate to refer the decision in the case of **State of Gujarat Vs. Lajbarkhan Sherdalkhan Pathan reported in 2023(0)AIJEL-HC 245462**. In para 12 and 13 has observed as under:-

Unless and until the appellant gives the sufficient cause for condonation of delay under Section 5 of the Limitation Act, is clearly mentioned that when sufficient cause is not given then the delay cannot be condoned. The law of limitation is enshrined in the legal maxim 'Interest Reipublicae Ut Sit Finis Litium' means it is for the general welfare that a period be put to litigation. Rules of limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time. However, the Court while allowing such application of delay has to draw a distinction between delay and inordinate delay for want of bonafides of an inaction or negligence would deprive a party of the

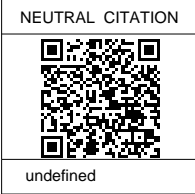


protection under the Act. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. The Court cannot condoned the delay on sympathetic grounds alone. Looking to the longer delay as well as the negligence on the part of the petitioner - State, the Court cannot be liberal to take it easy in granting condonation of delay. Looking to the ratio laid down in the judgment of the Hon'ble Apex Court in case of Lanka Venkateswarlu reported in AIR 2011 SC 1199, wherein it was observed as under :

“ Whilst considering applications for condonation of delay under S.5 of the Limitation Act, the Court do not enjoy unlimited and unbridled discretionary powers. All discretionary powers, especially judicial powers, have to be exercised within reasonable bounds, know to the law. The discretion has to be exercised in any systematic manner informed by reason. Whims or fancies, prejudices or predilections cannot and should not form the basis of exercising discretionary powers.”

12.2 In the case of Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Others reported in MANU/SC/0932/2013, the Hon'ble Supreme Court of India made an observation as follows:

“15. From the aforesaid authorities the principles that can broadly be culled out are: vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play. viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may

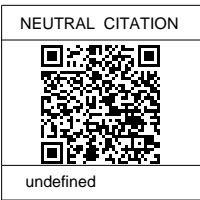


not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation. ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

12.3 In this background while considering condonation of delay, the routine explanation may not be enough but it has to be in the nature of indicating “sufficient cause” to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Court based on the fact situation. In the case of inordinate delay a strict approach is warranted because “delay defeats equity”. In the present facts and circumstances, sufficient cause for delay of 3230 days is not borne out. This Court has no doubt in its mind that there is willful latches and negligence on the part of the petitioner – State in defending its right. No error can be found in the impugned judgment and order. No interference is called for.

13. For the reasons recorded above, the present petition is devoid of merits and therefore, deserves to be dismissed and is dismissed accordingly. Rule is discharged.

9. In the present case as observed above, the applicant/s have received the amount of compensation on



14.10.2022 and instead of filing the appeals, firstly they chose to clear the dues which were pending in the market. Thereafter, application for Certified Copy was that too after period of limitation for filing the Appeal expired. The conduct does not justify in exercising the discretionary power in favour of the applicant/s. The applicant/s have remained negligence in preferring the appeals and also remained inactive after certified copies were received by the applicants.

10. In view of the aforesaid facts and circumstances, the captioned Civil Application stand rejected. Notice is discharged.

11. Registry shall place a copy of this order in each matter.

MANOJ

(D. M. DESAI,J)