2025:PHHC:097726

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

CWP-18234-2025 (O&M)
Date of Decision: 01.08.2025

Gham Sham

..... Petitioner

Versus

Estate Officer, Cantonment Board, Ambala Cantt.,
District Ambala and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Surinder Mohan Sharma, Advocate for the petitioner.

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HARSH BUNGER J. (ORAL)

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting aside the order dated 05.10.2021 (Annexure P-3) passed by Estate Officer, Cantonment Board, Ambala Cantt. and order dated 08.03.2022 (Annexure P-4) passed by learned Additional District Judge Ambala.

2. Concededly, challenge to the impugned orders has been made after an inordinate delay of more than three years.

3. In ***"Printers (Mysore) Ltd. v. M.A. Rasheed", 2004(4) SCC 460***; Hon'ble Apex Court observed as under:-

> *"25. Furthermore, the writ petition should not have been entertained keeping in view the fact that it was filed about three years after making of the allotment and execution of the deed of sale. The High Court should have dismissed the writ petition on the ground of delay and laches on the part of the*

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first respondent. The Division Bench of the High Court also does not appear to have considered the plea taken by the appellant herein to the effect that the first respondent had been set up by certain interested persons. In a public interest litigation, the Court should, when such a plea is raised, determine the same…"

3.1 In ***"Balwinder Singh v. Punjab State Electricity Board", 2011(2) SCT 501***; Hon'ble Division Bench of this Court observed as under:-

"5. The other ground for dismissing the writ petition filed by the writ petitioner-appellant is that he had a cause of action on 19.5.2005 when in pursuance of the direction issued by this Court the respondents have decided his legal notice on that date (P-5). However, the writ petition challenging that order was filed after a period of four years in August/September 2009, which is obviously beyond the period of more than four years. It is well settled that if an order passed by the public authorities have not been challenged in a writ petition within a period prescribed for filing of suit then the principle of limitation would apply. The period prescribed for challenging such order is three years. For the aforesaid proposition, reliance may be placed on a Constitution Bench judgment of Hon'ble the Supreme Court rendered in the case of ***State of M.P. v. Bhailal Bhai, AIR 1964 Supreme Court 1006.*** *On this score also, the writ petition has been rightly dismissed and the judgment passed by the learned Single Judge does not warrant interference of this Court…"*

3.2 That apart, Hon'ble Apex Court in SLP (C) Diary No. 48636 of 2024 titled as ***"State of Madhya Pradesh Vs. Ramkumar Choudhary"***, while considering the rules of limitation, has observed as under:-

"*5.1. In* ***Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir****, wherein, one of us (J.B.Pardiwala, J) was a member, after referring to various decisions on the*

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issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party.

7. There is one another aspect of the matter which we must not ignore or overlook. Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. (See: Ajit Singh Thakur Singh and Another v. State of Gujarat, AIR 1981 SC 733).

8. Accordingly, we dismiss this Special Leave Petition with costs of Rs.1,00,000/- to be deposited by the State within a period of two weeks from today with the Supreme Court Mediation Centre and file proof thereof. If the said amount,

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as directed, is not deposited by the State, the Registry shall take necessary steps for recovery of the same, in accordance with law.

9. We have deemed it necessary to impose costs to send a stern message that the States must not misuse the Supreme Court's time by filing appeals against the well-reasoned and conscious decisions rendered by the High Courts without proper grounds."

3.3 Further, the Apex Court in Civil Appeal No. 317 of 2025 titled as ***"H. Guruswamy and Ors. Vs. A.Krishnaiah since deceased by LRs"*** has observed as under:-

"13. We are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as "liberal approach", "Justice oriented approach", "substantial justice" should not be employed to frustrate or jettison the substantial law of limitation.

14. We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a lis between the parties.

15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a

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party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time. 18. For all the foregoing reasons this appeal succeeds and is hereby allowed. 19. The impugned order passed by the High Court is set aside and that of the Trial Court dated 05.08.2014 passed in Misc. No. 223 of 2006 is hereby restored."

3.4 In case of ***"Chennai Metropolitan Water Supply and Sewarage Board v. T. T. Murali Babu", 2014 (4) SCC 108***, the Hon'ble Supreme Court has clearly held as under:-

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ Court is required to weigh the explanation offered and the acceptability of the same. The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason,

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approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has fore gotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis."

4. A perusal of the paper book would show that there is no explanation therein, as to why this writ petition has been filed after such inordinate delay; nor learned counsel for the petitioner has been able to put forth any sufficient cause to justify as to why this writ petition could not be instituted within a reasonable time. It is thus clear that the writ petition suffers from gross delay and laches and no indulgence can be shown.

5. Accordingly, the writ petition is dismissed on the ground of delay and laches.

6. All pending application(s), if any, shall also stand closed.

01.08.2025 **(HARSH BUNGER)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No

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