



A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**CIVIL MISC REVIEW APPLICATION DEFECTIVE No. - 288 of
2023**

Gaon Sabha Sonbarsa, Pargana, Tehsil, Gonda Thru.
Pradhan Namely Alok Chaudhary

.....Applicant(s)

Versus

Shayam Sundar Chaudhary, Thru. Legal Heir, Om
Prakash Chaudhary

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Pankaj Gupta	
Counsel for Opposite Party(s)	:	Tarun Kumar Pandey,	Dharmendra Kumar Gupta

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

Order on IA-03 of 2023:

1. Heard Sri Pankaj Gupta, the learned counsel for the review applicant-Gaon Sabha, Sri Tarun Kumar Pandey, the learned counsel for the appellant/opposite party - Om Prakash Chaudhary and perused the records.
2. Although the office has reported that the notices stand served on the opposite parties, only the appellant/opposite party has put in appearance and filed objections against the application for condonation of delay.
3. The present application has been filed seeking condonation of delay of about 12 years in filing the application for review of the order dated 15.12.2011 passed by this Court allowing Second Appeal No. 769 of 1983.
4. In the affidavit filed in support of the application it has been stated that Gram Sabha was the opposite party no.1 in Second Appeal No.769 of 1983, which has been allowed by means of a judgment dated 15.12.2011. The land in question belongs to Gaon Sabha, it is recorded as talab, bhita and abadi land, which are public utility lands. An old temple also exists on a part of the land in question. The suit was barred by the provisions of Section 331 of U.P. Zamindari Abolition and Land Reforms Act. The appeal has been allowed without referring to any submission made by the learned counsel for the Gaon Sabha.

5. The legal heirs of the applicant filed Execution Application no. 6 of 2020 for execution of the order dated 15.12.2011. Upon receipt of its notice the review application has been filed.

6. In the objection filed by the appellant against the application for condonation of delay in filing the review application, it has inter alia been stated that a copy of the order dated 15.12.2011 was served upon the Gaon Sabha on 07.09.2012. Therefore, the order was in the knowledge of Gaon Sabha. Gaon Sabha had filed SLP (Civil) No.16059 of 2012 challenging the order dated 15.12.2011 and the SLP was dismissed by means of an order dated 21.09.2012. The order has been recorded in revenue records on 16.04.2013.

7. In **State of Nagaland v. Lipok Ao**: (2005) 3 SCC 752, the Hon'ble Supreme Court held that: -

"14. In G. Ramegowda v. Spl. Land Acquisition Officer [(1988) 2 SCC 142] it was held that no general principle saving the party from all mistakes of its counsel could be laid. The expression "sufficient cause" must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of delay. In litigations to which Government is a party, there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected, but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts, omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it. It was, therefore, held that in assessing what constitutes sufficient cause for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the Government. Government decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have "a little play at the joints". Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be

unfair and unrealistic to put Government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. The delay of over one year was accordingly condoned.

15. It is axiomatic that decisions are taken by officers/agencies proverbially at a slow pace and encumbered process of pushing the files from table to table and keeping it on the table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-à-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal, needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while the State is an impersonal machinery working through its officers or servants."

8. The aforesaid judgment was follows in **Antiyur Town Panchayat v. G. Arumugam**: (2015) 3 SCC 569, in which the Hon'ble Supreme Court further held that *"If the court is convinced that there had been an attempt on the part of the government officials or public servants to defeat justice by causing delay, the court, in view of the larger public interest, should take a lenient view in such situations, condone the delay, howsoever huge may be the delay, and have the matter decided on merits."*

9. In **State of Manipur v. Koting Lamkang**: (2019) 10 SCC 408, the Hon'ble Supreme Court held that: -

"7. ... it was necessary for the Court to also be conscious of the

bureaucratic delay and the slow pace in reaching a government decision and the routine way of deciding whether the State should prefer an appeal against a judgment adverse to it. Even while observing that the law of limitation would harshly affect the party, the Court felt that the delay in the appeal filed by the State, should not be condoned.

8. Regard should be had in similar such circumstances to the impersonal nature of the Government's functioning where individual officers may fail to act responsibly. This in turn, would result in injustice to the institutional interest of the State. If the appeal filed by the State are lost for individual default, those who are at fault, will not usually be individually affected."

10. However, in **Shivamma v. Karnataka Housing Board**: 2025 SCC OnLine SC 1969, the Hon'ble Supreme Court has held that: -

"261. ...Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.

263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to

contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

264. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law."

11. I proceed to examine the facts of the case to ascertain whether the same make out a case for condonation of delay in filing the review application. It is stated in the affidavit filed in support of the application for condonation of delay that the land in dispute is a public utility land recorded as talab, bhita and aabadi, and an old temple exists on a part of the land. The judgment dated 15.12.2011, which is sought to be reviewed, only records and accepts the submission of the learned Counsel for the appellant and it does not even make a mention of any submission advanced on behalf of the opposite parties. Although the High Court had allowed the Second Appeal on 15.12.2011, the decree holder-appellant himself remained lethargic for about nine years and has filed an application for execution of the decree only in the year 2020. The judgment-debtor - Gaon Sabha claims that notice of the execution application has been served upon it recently. Although the execution application was not barred by the period of limitation, but the delay of nine years in filing the application for execution and thereafter not taking steps promptly to ensure service of notice of the execution application on the judgment debtor – Gaon Sabha, is a relevant circumstance showing that when the decree holder himself has been lethargic and has not acted with reasonable promptitude, condonation of delay in filing the review application will not cause any prejudice to the respondent – decree holder. This fact is also very relevant that the properties in dispute are not personal properties of the Gram Pradhan and the same include a pond, a temple and a bhita (a mound or a small hillock), which are public properties.

12. In **Hinch Lal Tiwari v. Kamala Devi**: (2001) 6 SCC 496, the Hon'ble Supreme Court held that: -

"13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large.

Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites."

13. Keeping in view the entire facts and circumstances of the case, I am of the view that the aforesaid facts make out a case for condonation of delay in filing the review application. Accordingly, the application is allowed and the delay in filing of the review application is condoned.

Order on memo of review application:

14. Issue notice of the review application to the opposite parties.

15. The learned counsel for the review applicant shall take requisite steps in this regard within one week.

16. List the review application immediately after service of notice along with service report and the record of Second Appeal No.769 of 1983 and the Matter U/A 227 No.7284 of 2025.

January 20, 2026
Ram.

(Subhash Vidyarthi,J.)