

Special Tehsildar, Land Acquisition, Kerala

Vs

K.V. Ayisumma

Civil Appeal No. 334 of 1993

(K. Ramaswamy, G. B. Pattanaik JJ)

23.07.1996

ORDER

1. This appeal by special leave arises from the order of the High Court of Kerala dated 27-7-1992 made in CRP No. 695 of 1992. The admitted facts are that in an acquisition of the land for public purpose, the reference court by its award and decree dated 31-3-1989 had enhanced the compensation. The appellant had filed an application on 29-7-1991 to review the award and decree. There was a delay in filing the application. The learned Subordinate Judge had condoned the delay. Against the said order of condoning the delay, the respondent had gone in revision to the High Court. The High Court in the impugned order set aside the order of the Subordinate Judge. Thus this appeal by special leave.
2. It is now settled law that when the delay was occasional at the behest of the Government, it would be very difficult to explain the day-to-day delay. The transaction of the business of the Government was being done leisurely by officers who had no or evince no personal interest at different levels. No one takes personal responsibility in processing the matters expeditiously. As a fact at several stages, they take their own time to reach a decision. Even in spite of pointing at the delay, they do not take expeditious action for ultimate decision in filing the appeal. This case is one of such instances. It is true that Section 5 of the Limitation Act envisages explanation of the delay to the satisfaction of the court and in matters of Limitation Act made no distinction between the State and the citizen. Nonetheless adoption of strict standard of proof leads to grave miscarriage of public justice. It would result in public mischief by skilful management of delay in the process of filing the appeal. The approach of the Court should be pragmatic but not pedantic. Under those circumstances, the Subordinate Judge has rightly adopted correct approach and had condoned the delay without insisting upon explaining every day's delay in filing the review application in the light of the law laid down by this Court. The High Court was not right in setting aside the order. Delay was rightly condoned.
3. The appeal is accordingly allowed. The case is remitted to the reference court for disposal of the review petition in accordance with law. No costs.