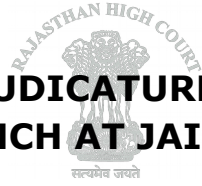




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 2797/2024

Rajendra Gupta

-----Petitioner

Versus

1. State of Rajasthan, Through Additional Chief Secretary, Department of Urban Development and Housing, Secretariat, Jaipur-302005
2. Director, Local Self Government, Near Civil Lines Phatak, Jaipur (Rajasthan)
3. Naagar Parishad, Bund, Through Commissioner, Near K.n. Singh Circle, Bundi.

-----Respondents

For Petitioner(s) : Mr. Naman Yadav

For Respondent(s) :

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

23/02/2024

1. The petitioner participated in the auction proceedings conducted by the respondents in the year 1972 and he deposited 1/4th of the auction amount on the spot on 11.12.1972 as per the terms and conditions of the auction notice. The remaining amount was not deposited by the petitioner for a considerable time, thereafter in the year 1990 he wanted to deposit the balance amount by way of demand draft dated 17.01.1990. The said demand draft of the petitioner was returned by the respondents vide letter dated 31.03.1990, by giving reference of Rajasthan Municipalities (Disposal of Urban Land) Rules 1974 (for short, 'the



Rules of 1974'). The petitioner submitted objections to the said letter dated 31.03.1990 by way of making a representation to the respondents indicating there in that Rules of 1974 are not applicable in the present matter as the auction pertains to the year 1972. Counsel submits that vide letter dated 21.08.1995, the Chairman Nagar Palika, Bundi written a letter to the Director, Local Self Government for seeking approval to permit the petitioner to deposit the balance amount. As per the case of the petitioner, inspite of passing of considerable time, till date, no approval has been granted by the Department of Local Self Government for the reasons best known to them. In the meantime, serveral representations were submitted to the authorities seeking approval to deposit the balance auction amount. Counsel submits that respondents are sitting over the matter and till date, neither any representation nor approval has been granted to the petitioner, Hence, under these circumstances, interference of this Court is warranted.

2. Heard and considered the submissions made at Bar and perused the material available on record.

3. This fact is not in dispute that the petitioner participated in the auction proceeding conducted by the respondents in the year 1972. This fact is also not in dispute that 1/4th amount of the auction fee was deposited by the petitioner in the year 1972 and balance amount was not paid by him for a considerable time and after a lapse of eighteen years, he prepared a demand draft and deposited the same in the year 1990. However, the said demand draft of the petitioner was returned by the respondents by giving a reference of Rules of 1974. It appears that the petitioner raised



certain objections in this regard that Rule 1974 are not applicable in the matter of the petitioner and considering the said objection of the petitioner, Chairman, Municipal Council, Bundi wrote a letter to the Director Local Self Government on 21.08.1995 seeking appropriate directions and approval, thereafter the matter remained pending and the same has not been decided till date, inspite of passing of more than 29 years. The petitioner was sitting over the matter and he has not challenged the action and non-action of the respondents before the Competent Court for redressal of his grievances except the steps taken by him by way of filing a representation. Mere filing of representation would not condone the lethargic attitude of the petitioner. It appears that the petitioner was sleeping over his right for a long considerable time i.e. three decades.

4. Mere filing of representation could not be a sufficient explanation for delay in approaching the Court for grant of relief. This petition suffers from delay of 29 years, hence this Court deems it just and proper to refer the legal position on the settled proposition, on the point of delay and laches.

5. In the case of **P.S.Sadasivaswamy Vs. State of Tamil Nadu** reported in **(1975) 1 SCC 152** it was laid down by the Hon'ble Apex Court that a person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 of the Constitution of India nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time,



but it should be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 of the Constitution of India in the case of persons who do not approach it expeditiously for the relief.

6. In the case of **New Delhi Municipal Council Vs. Pan Singh and Others** reported in **(2007) 9 SCC 278** the Hon'ble Apex Court has opined that though there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, yet ordinarily a writ petition should be filed within a reasonable time. In the said case the respondents had filed the writ petition after seventeen years and the Hon'ble Apex Court, as stated earlier, took note of the delay and laches, as relevant factors and set aside the order passed by the High Court which had exercised the discretionary jurisdiction.

7. In the case of **State of Uttaranchal and another Vs. Sri Shiv Charan Singh Bhandari and Others** reported in **(2013) 12 SCC 179** the Hon'ble Apex Court, while considering the issue regarding delay and laches, observed that even if there is no period prescribed for filing the writ petition under Article 226 of the Constitution of India, yet it should be filed within a reasonable time. Relief to a person, who puts forward a stale claim can certainly be refused relief on account of delay and laches. Anyone who sleeps over his rights is bound to suffer.

8. In the case of **Chennai Metropolitan Water Supply and Sewerage Board and Others Vs. T.T.Murali Babu** reported in **(2014) 4 SCC 108** the Hon'ble Apex Court opined as under:-

"13. First, we shall deal with the facet of delay. In Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others,



AIR 1969 SC 329, the Court referred to the principle that has been stated by Sir Barnes Peacock in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd, Abram Farewall, and John Kemp, (1874) 5 PC 221*, which is as follows:-

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

15. In *State of M. P. and others etc. etc. vs. Nandlal Jaiswal and others etc. etc.*, AIR 1987 SC 251, the Court observed that it is well settled that power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. It has been further stated therein that if there is inordinate delay on the part of the petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

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, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize 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 forgotten 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.A court is not expected to give indulgence to such indolent persons- who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

9. In the case of **State of Jammu & Kashmir Vs. R.K.Zalpuri and Others** reported in **(2015) 15 SCC 602** the Hon'ble Apex Court considered the issue regarding delay and laches, while initiating a dispute before the Court. It was opined that the issue sought to be raised by the petitioners therein was not required to be addressed on merits on account of delay and laches. The relevant paras thereof are extracted below:-

"27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim "Deo gratias - thanks to God".

28. Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to



be adjudicated unless non-interference would cause grave injustice. The present case, need less to emphasise, did not justify adjudication. It deserves to be thrown overboard at the very threshold, for the writ petitioner had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant present."

10. The aforesaid view was followed by the Hon'ble Apex Court in the case of **Union of India and Others Vs. Chaman Rana** reported in **(2018) 5 SCC 798**.

11. Subsequently, a Constitution Bench of the Hon'ble Supreme Court in the case of **Senior Divisional Manager, Life Insurance Corporation of India Ltd. and Others Vs. Shree Lal Meena** reported in **(2019) 4 SCC 479**, considering the principle of delay and laches, opined as under:-

"36. We may also find that the appellant remained silent for years together and that this Court, taking a particular view subsequently, in *Sheel Kumar Jain v. New India Assurance Company Limited*, (2011)12 SCC 197 would not entitle stale claims to be raised on this behalf, like that of the appellant. In fact the appellant slept over the matter for almost a little over two years even after the pronouncement of the judgment.

37. Thus, the endeavour of the appellant, to approach this Court seeking the relief, as prayed for, is clearly a misadventure, which is liable to be rejected, and the appeal is dismissed."

12. In the case of **Bharat Coking Coal Ltd. and Others Vs. Shyam Kishore Singh** reported in **(2020) 3 SCC 411**, the issue regarding the delay and laches was considered by the Hon'ble Supreme Court, while dismissing the petition filed belatedly, seeking change in the date of birth in the service record.



13. The issue of delay and laches was considered by the Hon'ble Supreme Court in the case of **Union of India and Others Vs. N.Murugesan and Others** reported in **(2022) 2 SCC 25**.

Therein it was observed that a neglect on the part of a party to do an act which law requires must stand in his way for getting the relief or remedy. The Hon'ble Supreme Court laid down two essential factors i.e. first, the length of the delay and second, the developments during the intervening period. Delay in availing the remedy would amount to waiver of such right. Relevant paras 20 to 22 of the above mentioned case are extracted below:

"20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word "laches" is derived from the French language meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum.



Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy."

14. The Hon'ble Supreme Court in the matter of **Union of India & Ors. Vs. Chaman Rana** reported in **(2018) 5 SCC 798** in para No.10 held as under:-

"10. Mere repeated filing of representations could not be sufficient explanation for delay in approaching the Court for grant of relief, was considered in Gandhinagar Motor Transport Society v. Kasbekar, by Chagla C.J. observing as follows: (SCC Online Bom : AIR p. 203, para 2).

"2.... Now, we have had occasion to point out that the only delay which this Court will excuse in presenting a petition is the delay which is caused by the Petitioner pursuing a legal remedy which is given to him. In this particular case the Petitioner did not pursue a legal remedy. The remedy he pursued was extra-legal or extra-judicial. Once the final decision of government is given, a representation is merely an appeal for mercy or indulgence, but it is not pursuing a remedy which the law gave to the petitioner..."

15. Clearly, the writ petition was barred by delay and laches. The petitioner approached this Court after a delay of almost 29 years. There was no satisfactory explanation for laches and the delay in filing the writ petition on the part of the writ petitioner. The law has long set its face against indolent litigants who approach this Court after a long delay.

16. The Courts have consistently observed that delay and laches on part of the litigant will disentitle him to any relief. In this



regard the Hon'ble Supreme Court has settled the law with clarity and observed it with consistency.

17. The line of authorities on this point are consistent and long. The discussion will benefit from the authorities in point.

18. The Hon'ble Supreme Court in the case of **R & M Trust Vs. Koramangala Residents Vigilance Group and others** reported at **2005 (3) SCC 91** held thus:-

"There is no doubt that delay is a very important factor while exercising extraordinary jurisdiction under Article 226 of the Constitution. We cannot disturb the third party interest created on account of delay. Even otherwise also why Court should come to rescue of person who is not vigilant of his rights."

19. The Hon'ble Supreme Court in the case of **Maharashtra State Road Transport Corporation Vs. Balwant Regular Motor Service** reported at **AIR 1969 SC 329** held thus:-

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases,



are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

20. The petitioner participated in the auction process in the year 1972, then slept for 18 years and woke up in the year 1990 and prepared a demand draft for depositing the balance amount. However the amount offered by the petitioner was not accepted by the respondents after 18 years and the same was returned to him. Then a letter was written by the Municipal Council, Bundi to Director, Local Bodies in the year 1995 seeking same guidelines. Therefore nothing happened and again the petitioner slept for 29 years and has woke up now by way of filing this petition for not giving any good plausible explanation of total 52 years delay in raising his voice to get the auctioned land.

21. Hence, the petitioner is not entitled to get any relief because this writ petition suffers from delay and laches and the same is hereby dismissed on this count alone.

22. Stay application and all pending application(s), if any, also stand dismissed.

(ANOOP KUMAR DHAND),J

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