

A THE SPECIAL TEHSILDAR, LAND ACQUISITION, KERALA

v.

K. V. AYISUMMA

JULY 23, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Limitation Act, 1963: Section 5.*

C *Delay occasioned at the behest of Government—Condonation of—Delay must be explained satisfactorily to Court—Act makes no distinction between State and citizen—Nonetheless when condonation of delay is sought by Government adoption of strict standard of proof would lead to grave miscarriage of justice—Approach of Court should be pragmatic and not pedantic—Land acquisition—Decree and award—Review application by State seeking review—Delay condoned without insisting upon explaining every day's delay in filing the review application—Held justified.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 334 of 1993.

E From the Judgment and Order dated 27.7.92 of the Kerala High Court in C.R.P. No. 695 of 1992-C.

M.T. George for the Appellant.

B.V. Deepak, Dilip Pillai and G. Prakash for the Respondent.

F The following Order of the Court was delivered :

G This appeal by special leave arises from the order of the High Court of Kerala dated July 27, 1992 made in CRP No. 695/92. The admitted facts are that in an acquisition of the land for public purpose, the reference Court by its award and decree dated March 31, 1989 had enhanced the compensation. The appellant had filed an application on July 29, 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 H the Subordinate Judge. Thus this appeal by special leave.

It is now settled law that when the delay was occasioned 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 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 would 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.

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.

T.N.A.

Appeal allowed.