



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



S.B. Civil Writ Petition No. 12729/2020

Prachin Choudhary Son Of Shri Bhupendra Singh Choudhary,  
Aged About 44 Years, Resident Of Plot No 4, Veer Tejaji, Beawar  
Road, Dorai, District Ajmer (Rajasthan)

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary,  
Department Of Mines And Geology, Secretariat, Jaipur
2. Joint Secretary, Govt Of Rajasthan, Mines (Group-2)  
Department, Secretariat, Jaipur
3. Additional Director, Mines (E And D), Department Of  
Mines And Geology, Govt Of Rajasthan, Directorate Of  
Mines And Geology, Court Circle, Udaipur
4. Mining Engineer, Department Of Mines And Geology, Sikar
5. Assistant Mining Engineer, Department Of Mines And  
Geology, Neem Ka Thana

-----Respondents

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For Petitioner(s) : Mr.Ashwani Kumar Chobisa  
For Respondent(s) : Mr.Rahul Lodha, AGC

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**HON'BLE MR. JUSTICE AVNEESH JHINGAN**

**Order**

**23/07/2024**

**AVNEESH JHINGAN, J (ORAL):-**

1. This petition is filed aggrieved of dismissal of appeal as time barred.
2. Brief facts are that the petitioner was granted lease for Mineral Masonary Stone for an area measuring 1.00 hectare in Village Ramsinghpura, Tehsil Neem Ka Thana, District Sikar. The lease deed was initially for twenty years, however, with the implementation of Rajasthan Mines and Mineral Concession Rules,



2017, the lease period would have been fifty years from the initial grant. On 20.05.2013, the petitioner was issued notice pointing out deficiencies in running the mine. The petitioner failed to respond to the notice and the proceedings culminated in order dated 16.01.2014, cancelling the lease deed. The petitioner filed the first appeal on 17.11.2017 along-with an application for condonation of delay. The appeal was dismissed as time barred. There was no success in the second appeal, hence the present petition.

3. Learned counsel for the petitioner submits that the petitioner was mentally upset and not aware of the proceedings initiated for cancellation of the lease deed. It is further argued that the petitioner in the year 2017 has complied with all the deficiencies mentioned in notice dated 20.05.2013.

4. Learned counsel for the respondents defends the impugned order, submits that the order cancelling the lease deed was sent on the address of the petitioner through registered post and it was not received back undelivered. It is argued that there was no explanation for delay of more than three years in filing the appeal.

5. The lease deed was cancelled vide order dated 16.01.2014. The appeal was preferred in November, 2017 i.e. after delay of more than 3 and half years. The petitioner pleaded before the First Appellate Authority that the petitioner was mentally upset and not aware of cancellation of the lease deed. Only after receiving a certified copy of order on 25.04.2017 the appeal was filed. The respondents had substantiated that the order for cancelling the lease deed was sent on the address of the petitioner through registered post. No medical evidence of illness of the petitioner



was produced either before the Appellate Authority or before this Court.

6. The Supreme Court in ***Oriental Aroma Chemical Industries Ltd vs. Gujarat Industrial Development Corporation and Anr.*** reported in **2010 (5) SCC 459** has held as under:-

*"We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate."*

[emphasis]



7. Further the Supreme Court in ***Pundlik Jalam Patil (D) by LRs. vs. Exe. Eng. Jalgaon Medium Project and another*** reported in **2008 (17) SCC 448**, has held as under:

*"It was its duty to prefer appeals before the Court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights."*

8. In the case in hand, the petitioner apart from making a bald statement that petitioner was mentally upset and not aware of the proceedings, no evidence was produced. The delay cannot be condoned mechanically in absence of sufficient cause. Considering that there is an inordinate delay of more than three years and there is no explanation worth acceptance for condoning the delay, no interference is called for in impugned orders.

9. The writ petition is dismissed, accordingly.

**(AVNEESH JHINGAN),J**

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Reportable: **Yes**