REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 9488-9489 OF 2019
(Arising out of SLP (Civil) Nos.5581-5582 of 2019)

University of Delhi ....Appellant(s)

Versus

Union of India & Ors. .... Respondent(s)

J U D G M E N T

A.S. Bopanna,J.

Leave granted.

2. These appeals have been preferred by the appellant-University of Delhi through its Registrar to challenge the common judgment and order dated 29.10.2018 whereby, the High Court of Delhi declined to condone the delay of 916 days in filing the appeal to challenge the judgment dated 27.04.2015 whereunder, the learned Single Judge had dismissed the W.P (C) No.2743/2012 filed by the University of Delhi.

3. The challenge in the writ petition was, *inter alia,* to the decision dated 12.5.2011 of the Delhi Development

Authority (hereinafter referred to as the, "DDA" for short) who had allowed respondent no.13-M/s Young Builders (P) Ltd. to construct a high-rise multistory group housing society in the control zone of Zone-C in the University campus, without any height restriction. The construction permission was allowed on the plot leased out to the Delhi Metro Rail Corporation (hereinafter referred to as the, "DMRC" for short) by permitting segregation of 2 hectares as a separate entity from the total 3 hectares of land, acquired for the metro station.

4. The principal contentions of the appellant-University on the merits of the challenge were as follows:

a) the permission sought by Respondent No. 13 (namely, M/s Young Builders Private Limited) for the proposed construction of a group housing society on the land originally owned by the Ministry of Defence in the University enclave is violative of the MPD-2021 and is against the larger public interest, given the fact that the project site in question and its vicinity are within the North Campus of the University and that it contains various historical and archaeological buildings, apart from it being

the centre of higher education and advanced learning; and

b) the change in the character of the subject land is impermissible in law, since the land having been acquired for public purpose for construction of the metro rail project, has suddenly been diverted to private commercial use and auctioned to private builder for building a group housing society in a manner contrary to the purpose and charter of incorporation of the Delhi Metro Rail Corporation (DMRC)

c) The restriction on certain developments for Metro Station prescribed under Master Plan of Delhi – 2021 ('MPD' for short) was also a contention raised by the writ petitioner which imposed ban on construction of high-rise buildings in the control zone of the Delhi University. The location of various ladies' hostels of the University in close vicinity of the proposed construction site was highlighted as an important privacy concern. The impediment to access of thousands of students, teachers at the entrance of the University was the other main contention raised in the writ petition.

5. On the other hand, the DMRC had projected that after construction of the University Metro Station, 2

hectares of land remained surplus and the housing project was intended to generate revenue for the DMRC as per the policy of the Government. The formal application made to the authorities for change of land use and approval secured for conversion of the land for residential use, was also highlighted by the DMRC.

6. The learned Single Judge having noticed the entire sequence refused to entertain the writ petition of the University including on the ground of delay and laches. In the judgment dated 27.04.2015 the Court however observed that DDA is the master of the formulation and implementation of the Master Plan and, necessary approvals have been taken from various statutory authorities for the housing project. It was also observed that the change in the land use from "public" to "residential" is permissible by adverting to the Delhi High Court's Division Bench Judgment in ***Adil Singh vs. Union of India*** (2010) 171 DLT 748. According to the Writ court, since it was a policy decision taken by the Government body and since the appellant-University has

failed to demonstrate any illegality, impropriety, mala fide in the decision making by the authority, interference of the Court with the policy decision, would not be justified.

7. It is the case of the appellant that following the dismissal of the writ petition and being concerned about the future use of the subject land, the University Authorities constituted a Committee to recommend the appropriate course of action to be taken by the University. The Committee's report furnished on 11.11.2016 is stated to have been laid before the Executive Council of the University and after due consideration of the report and the judgment of the learned Single Judge, the Executive Council of the University through their resolution dated 28.02.2017/07.03.2017 decided to prefer an intra-Court Appeal in the High Court.

8. While the above deliberations were on, accessibility concern to the University's Metro Station area was raised under the Rights of Persons with Disabilities Act, 2016 by persons with disabilities. The University also received a report on preventive measures to be taken in the accident-prone area of the Metro Station. With these and other

projection, the appeal in LPA No.89/2018 came to be filed on 01.03.2018 after a delay of 916 days, together with the C.M.No.8654/2018 for condonation of delay in filing the appeal.

9. The delay of 916 days caused in preferring the Appeal was explained in the application seeking delay condonation and the rejoinder to the reply to said application to the following effect;

> (i) Non-convening of Executive Council and delay occasioned due to non-availability of Vice-Chancellor. The case in the present LPA is different from other routine litigation preferred or contested by the appellant. It is the only case where, the approval from the Executive Council of the University of Delhi was required to be taken and before such approval, various deliberations preceded so as to appraise the Executive Council of the different shades of the subject matter. Being a statutory body, an adherence to the just method of decision making requires consultations with affected departments of the University itself

and therefore, the final say in the matter rests with the Executive Council which is constituted under Section 21 of the Delhi University Act, 1922. The Council includes the senior most Deans, democratically elected representatives of teachers, the Visitor's nominee, the Registrar, and the Vice-Chancellor.

(ii) The judgment of learned Single Judge was sent by the Counsel representing the University quite late and it was, then, place before the Legal Cell of the University for examining the matter. After going through the voluminous paper book, it was opined that the matter be referred to the Vice-Chancellor for consideration and pursuant thereto, a meeting was held, wherein it was decided that the matter needs to be dealt with holistically, having regard to all the issues decided and connotations thereof. The issue could not be taken up for consideration as the post of Vice-Chancellor had fallen vacant w.e.f. 28.10.2015 and could be considered only after the new Vice-

Chancellor had assumed office and taken stock of things. On 10.03.2016, the new Vice-Chancellor joined the office and in order to ensure democratic functioning of the University, he decided to constitute a Committee comprising of senior faculty persons representing different sections of the University. The terms of reference of the Five-member Committee were, to recommend the course of action to the University in the light of the dismissal of the Writ Petition filed by the University in the DMRC matter.

(iii) On 11.11.2016, the above constituted Committee gave its Report. Based on the Report of the five-member Committee, it was decided by the Competent Authority that the subject matter of the present case be referred to the Executive Council of the University for its final decision. In the Executive Council meeting held on 28.02.2017, the matter was discussed. The item was again discussed in the Executive Council meeting held on 7.3.2017 (continued meeting),

where the members of the Council referred to the earlier discussions and decisions of both the Academic Council and the Executive Council with respect to the same matter and it was decided unanimously to prefer an Appeal against the Order of the learned Single Judge dated 27.04.2015 after adequate preparation.

(iv) In the meanwhile, reservation was strongly put forth by the disabled students and faculty in the light of the proposed project by the private builder at the very main entrance of the University of Delhi. Such representations were received from individuals as well as groups which the University had to consider and were therefore forwarded to the Equal Opportunity Cell for consideration. The Equal Opportunity Cell, University of Delhi, which looks after the welfare of disabled students and others, in the light of the new enactment on the Rights of Persons with Disabilities Act, 2016, analyzed the probable outcome. After detailed deliberations, the Equal Opportunity Cell

submitted its Report on 28.04.2017 which was brought to the notice of Competent Authorities for their consideration. The Report was considered at various levels of the University including the Office of the Dean, Student Welfare, the Department of legal affairs, the Office of the Proctor, the Engineering Department, and the Department of Environmental Studies. Holding discussions and deliberations among these bodies and considering their inputs involved further time and it involved co-ordination and interaction with various authorities and stake holders. All this exercise involved a further period of five to six months before a considered opinion could be generated by the University of Delhi. Hence the representations and the Report of the Equal Opportunity Cell could be finally considered by the University of Delhi around the end of year 2017.

(v) In the interregnum, the accidents occurred at Chhatra Marg in December 2017 led to the

need for the preparation of a Report by the Office of the Proctor of the University dated 05.02.2018 wherein the Proctor recommended the area to be declared as accident prone. Both the Reports - one by the Equal Opportunity Cell and the other by the Office of Proctor -- were sent to the Counsel concerned who was holding the brief for the preparation of the Appeal memorandum.

Subsequently legal opinion was sought and the draft appeal and petition was prepared which was thereafter got vetted and settled by the Senior Counsel. The finalized Appeal was thereafter again considered at the highest level at the University to take the final decision, which entailed some time. On 01.03.2018, the LPA was filed before the Delhi High Court.

10. The above explanation for the delayed filing was however not accepted and the Division Bench of the High Court on 29.10.2018 dismissed the LPA on the ground of delay without considering the merits of the appeal. Thus,

aggrieved the appellant-University has filed this appeal.

11. Shri Mohan Parasaran, learned Senior Counsel for the appellant submits that the implication of the rejection of the writ petition and the LPA without considering the substantial contention raised by the University on merits would cause grave injury to the public institution. The learned Senior Counsel submits that the University Authorities have been pursuing the issue with due diligence but decision had to be taken after consultation with all the stakeholders and therefore, the delay in preferring the LPA should not be attributed to any inaction, much less a deliberate inaction. The endeavor of the Courts according to Shri Parasaran should be to do substantial justice to the parties by deciding the matters on merits but in the present case, neither the learned Single Judge nor the Division Bench of the High Court had considered the merit of the contention raised by the appellant-University. Shri Parasaran argues that the expression "sufficient cause" is elastic enough to enable the courts to apply the law of limitation in a meaningful manner. He also projects that since the builders are yet to

start their construction, the delayed filing of the LPA should not have resulted in non-consideration of the contention on merits, as major public interest issues have been raised in the present matter. The learned Senior Counsel argues that important questions effecting public interest cannot be defeated on technical objection, inasmuch as the proposed site for construction was originally owned by the Defence Ministry and the land was acquired for public purpose at public expense but is now sought to be given over to a private builder, for a profit oriented motive. The said contentions are also supplemented by Shri R. Venkataramani and Shri Ramji Srinivasan, learned Senior Advocates.

12. Ms. Meenakshi Arora, learned Senior Counsel representing the applicants/intervenors submits that six girl hostels are located near to the project site and if high rise apartments are allowed to be constructed, the privacy of the hostel residents would be compromised. Ms. Arora also refers to the letter dated 25.10.1943 of the Joint Secretary, Government of India, Department of Education addressed to the Chief Commissioner of Delhi conveying

the decision of the Government of India to ensure that no tall buildings are erected inside the Delhi University Campus and also the necessity of protecting University area, as an enclave. The Senior Counsel then refers to the Zonal Development Plan for Zone-"C" (Civil Lines Zone) of the DDA as approved by the Ministry of Urban Development to point out that the authorities have recognized the existence of number of old historical buildings of the colonial period within the Delhi University Campus and effort should be made to convert the Delhi University into an integrated Campus with restriction on tall buildings.

13. Shri Shyam Divan, learned Senior Counsel for respondent No.13- M/s Young Builders would at the outset contend that though the learned Senior Counsel for the appellant has referred to the merits of the case, keeping in view the position that the Division Bench of the High Court has dismissed the LPA on the ground of delay and laches, that aspect of the matter would require consideration at the threshold. He would assert that the delay of 916 days is an inordinate delay of more than two

and a half years and in such event the principle of applying the usual test for "sufficient cause" would not arise as it is not merely the number of days requiring condonation but also amounts to laches in filing the writ petition, as well as the LPA. Mere contention that the proceedings initiated by the appellant is in public interest would not advance the case inasmuch as the learned Single Judge having adverted to all these aspects has arrived at the conclusion that the petition suffers from laches in addition to there being no merit and in such circumstance when the LPA was once again delayed by 916 days the Division Bench was justified in its conclusion. It is pointed out that the said delay of 916 days is as against the period of 30 days which is allowed in law for filing the LPA. It is contended that the cause of action if any should be construed on 23.09.2005 when the area was converted into residential, but the writ petition was filed only on 07.05.2012 and despite the writ petition having been disposed of on 27.04.2015 the LPA was filed only on 01.03.2018 after a delay of 916 days. The reason assigned that a decision to file the LPA could not be taken

as the office of Vice-Chancellor had fallen vacant also cannot be accepted since such vacancy arose only on 28.10.2015 while the writ petition had already been disposed of on 27.04.2015 and there was sufficient time to file the LPA if they had the intention to do so. The learned Senior Counsel further refers to the large number of cases that was filed on behalf of the University during the said period. It is contended that while considering condonation of delay the prejudice that would be caused to the opposite side is also one of the aspects to be considered. If that situation is kept in view, in the instant case the request for proposal in favour of the respondent No.13 was notified on 23.06.2008 and the Letter of Acceptance was issued on 13.08.2008 and the lease being for 90 years, already 11 years have passed and by such belated proceedings the project is prejudicially hampered. The respondent No.13 has already spent Rs.233 crores being the lease amount paid to the DMRC and also for securing appropriate approvals. It is contended that the respondent No.13 had to face earlier litigation as well which has been taken note by the learned Single Judge and the respondent cannot be

exposed to such repeated litigations.

14. Shri Tushar Mehta, the learned Solicitor General appearing on behalf of respondent No.11-DMRC, has contended that the Ministry of Urban Development as a matter of Policy of the Government of India had permitted the DMRC to generate its own resources through property development and has accordingly permitted to carry out property development on the land transferred to it by the Government. In such event when the DMRC has taken such steps not only in the instant case but also in several other projects, any interference at this stage more particularly when there is belated challenge of the present nature, it would have a serious impact on the projects undertaken. It was submitted that due to certain changes affected in the manner in which the Metro Rail Project was to be implemented there was some excess land which has been put to use to generate resources for the project and in that regard when there is a contractual relationship with respondent No.13 if the much belated petition is entertained at this stage, there would be a great financial impact which is also a loss to

the public exchequer and in such event the public interest would be better served by not condoning the delay in such matters. Moreover, it is not a case of mere delay in filing the LPA but is a serious case of laches. It is also noticed by the learned Single Judge that the writ petition itself was filed after 7-8 years and in such event if the discretionary orders passed in the writ jurisdiction is interfered in the limited jurisdiction of this Court, it would set a bad precedent.

15. Shri A.N.S. Nandkarni, learned Additional Solicitor General would also refer to the aspect of delay and laches and supplement the arguments advanced by the learned Solicitor General. He would further contend that the Union of India being the owner of the land which was acquired does not have objection for the project and in such event interference at the instance of the appellant herein would not be justified. Ms. Binu Tamta, learned Counsel submitted in support of the contentions raised by the respondents.

16. Shri Mohan Parasaran, learned Senior Counsel in reply to the said contention would reiterate the contentions put forth relating to the explanation of delay and would contend that the conclusion of the learned Single Judge that the writ petition was hit by laches is fallacious inasmuch as the respondent No.13 themselves had filed a writ petition raising certain disputes with regard to the limit of FAR through the Notification dated 20.01.2005 and such challenge by the respondent No.13 had come to an end on 18.05.2011 and the NOC etc. were obtained subsequently, after which the writ petition was filed by the appellant herein in the year 2012. Hence the delay and laches has been explained and it is not a case of negligence. It is contended that the stand of the DMRC that it would be put to financial loss cannot be accepted at this point since the question as to whether they would be liable to pay interest or not are matters which would have to be considered in appropriate proceedings. Hence, he contends that the High Court ought to have condoned the delay and the matter should have been considered on its merits.

17. Though we have exhaustively referred to the pleadings and the contentions of the parties, including contentions put forth on merits, the same is only for completeness and to put the matter in perspective before considering the issue relating to delay and laches. In the instant case, considering that the Division Bench of the High Court has dismissed the LPA on the ground of delay of 916 days, that aspect of the matter would require consideration at the outset and the facts on merits is noted to the limited extent to find out whether in that background the public interest would suffer. The learned Senior Counsel for the appellant in order to impress upon this Court the principle relating to consideration of "sufficient cause" for condonation of delay and the factors that are required to be kept in view, has relied on the decision in the case of ***Collector, Land Acquisition, Anantnag & Anr.vs. Katiji & Ors.,*** 1987(2) SCC 107 wherein it is held as hereunder:

> **"3.** The legislature has conferred the power to condone delay by enacting Section 5 [Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be

admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.] of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on "*merits*". The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice — that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

"1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common-sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is

capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the “State” which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner. There is no warrant for according a step-motherly treatment when the “State” is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant-non-grata status. The courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression “sufficient cause”. So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits. Turning to the facts of the matter giving rise to the present appeal, we are satisfied that sufficient cause exists for the delay. The order of the High Court dismissing the appeal before it as time-barred, is therefore, set aside. Delay is condoned. And the matter is remitted to the High Court. The High Court will now dispose of the appeal on merits after affording reasonable opportunity of hearing to both the sides.”

18. Further the decision in the case of ***M/s Dehri Rohtas Light Railway Company Ltd. Vs. District Board, Bhojpur & Ors***. (1992) 2 SCC 598 is relied upon, wherein this Court has indicated the real test to determine the delay is that the petitioner should come to Court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence.

19. The learned Senior Counsel for respondent No.13, on the other hand, has relied upon the decision in the case of ***Postmaster General & Ors. vs. Living Media India Limited & Anr.*** 1992 (3) SCC 563 wherein it is held as hereunder:

> **"28.** Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

> **29.** In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

20. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party namely the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even- handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation

would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation. In the case of ***Katiji*** (Supra) the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800 per cent.

21. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of

the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified.

22. The entire explanation for the inordinate delay of 916 days is twofold, i.e. the non-availability of the Vice-Chancellor due to retirement and subsequent appointment of new Vice-Chancellor, also that the matter was placed before the Executive Council and a decision was taken to file the appeal and the said process had

caused the delay. The reasons as stated do not appear very convincing since the situation was of availing the appellate remedy and not the original proceedings requiring such deliberation when it was a mere continuation of the proceedings which had already been filed on behalf of the appellant herein, after due deliberation. Significantly, the Vice-Chancellor who was at the helm of affairs when the writ petition was filed, prosecuted and disposed of on 27.04.2015 was available in the same office till 28.10.2015, for about six months which was a long enough period as compared to 30 days limitation period for filing appeal. In that circumstance when the said Vice-Chancellor who had prosecuted the writ petition was available, the submission of the learned Senior Counsel for the appellant that unseen hands are likely to have prevented the filing of the appeal also cannot be accepted. Secondly, the reason sought to be put forth about the decision required to be taken by the Executive Council is also not acceptable when it was just the matter of filing the appeal. In fact, in the writ petition an affidavit was filed referring to Resolution No.56 and

173 of Academic Council and Executive Council authorising for filing writ petition. When the writ petition was filed based on such authorisation and the stand of the appellant, as the writ petitioner was put forth and had failed in the writ petition, it cannot be accepted that the appellant with all the wherewithal was unable to file the appeal, that too when the same Vice-Chancellor was available for six months after dismissal of the writ petition. Hence the reasons put forth cannot in our opinion constitute sufficient cause.

23. That apart, as rightly noticed by the Division Bench in the LPA, the approval from the Executive Council was obtained on 28.02.2017 / 07.03.2017, the appeal was ultimately filed on 01.03.2018 after an year from the said date which only indicates the casual approach which is now sought to be overcome with the plea of public interest despite there being no explanation for the delay at every stage. It is true that as held in the case of Mst. Katiji (supra) that every day's delay need not be explained with such precision but the fact remains

that a reasonable and acceptable explanation is very much necessary. The Division Bench apart from noticing these aspects had also noted that the learned Single Judge too found the writ petition to be hit by delay and laches.

24. In that backdrop, a perusal of the order dated 27.04.2015 passed by the learned Single Judge would indicate that the learned Single Judge in para – 65 of the order with reference to his earlier observation has arrived at the categorical conclusion that the petition suffers from laches and has been filed with delay of 7-8 years. The learned Senior Counsel for the appellant while seeking to dispel such conclusion by the learned Single Judge contended that the respondent No. 13 themselves had filed a writ petition being aggrieved by the restricted FAR and the said writ petition was disposed only on 18.05.2011 and the need for the appellant herein to file the writ petition arose only thereafter. The said contention is also not acceptable if the entire sequence is noticed.

25. In that regard there can be no dispute to the fact that the Respondent No. 13 being aggrieved by the decision of DDA had filed a petition bearing W.P. No.3135/2010 assailing the letter dated 19.08.2009 and the same was disposed of only on 18.05.2011 but the appellant cannot take shelter under the same to explain the laches. This is because much water had flown under the bridge before the said development and those events ought to have triggered action from the appellant in challenging, more so when there were other litigations relating to the same subject, as noticed in the order of the learned Single Judge.

26. In the present matter, the land was converted to residential use in 2005 and Respondent No.11 – DMRC had invited bids and public auction was conducted on 28.07.2008 which ought to have awakened the appellant herein for the first time since the fact of conversion of the land into residential development was in public domain even if is assumed that the earlier process of approval etc. by the DDA on the approval request of DMRC are

internal process and not be known to the appellant. In fact, the learned Single Judge while taking note of the challenge raised by the appellant herein has also taken note of an earlier petition bearing W.P (C) No.8675/2011 filed by the Association of Metro Commuters wherein also the residential development was an issue, which came to be dismissed by order dated 14.02.2011. Similarly, another petition in W.P(C) No.6624-6625/2012, though challenging the acquisition was filed, the same was also dismissed. Thereafter the writ petition of the appellant filed in the year 2012 was pending till it was disposed on 27.04.2015.

27. Despite the writ petition having been filed belatedly in respect of certain actions which had commenced in the year 2005 and even though the writ petition was filed after obtaining approval of the Executive Council, no steps were taken to file the writ appeal for 916 days after disposal of the writ petition. In such circumstance, the cumulative effect of the delay and laches cannot be ignored. The decisions referred by the

learned Senior Counsel for the appellant noted Supra cannot, therefore, be applied in the present facts and circumstance inasmuch as the consideration hereunder was not merely the explanation for the delay of few days in filing the appeal. Though contention is put forth that the delay is required to be condoned since public interest is involved, the nature of the proceedings that have taken place thus far would indicate that the matter has been examined at different stages in the earlier litigations and if the grounds on which the appellant was assailing the action of the respondents were to be examined on merits, they ought to have been more diligent in prosecuting the matter before the Court.

28. In the matter of condonation of delay and laches, the well accepted position is also that the accrued right of the opposite party cannot be lightly dealt with. In that regard, rather than taking note of the hardship that would be caused to the respondent No.13 as contended by the learned Senior Counsel, what is necessary to be taken note is the manner in which the respondent No.11

– DMRC has proceeded in the matter. The respondent No.11- DMRC is engaged in providing the public transport and for the said purpose the Government through policy decision has granted approval to generate resources through property development and in that regard the development as earlier indicated, is taken up. Pursuant thereto the respondent No.11 has received a sum of Rs.218.20 crores from respondent No.13 as far back as in the year 2008. The said amount as indicated is used for its projects providing metro rail service to the commuting public. In such circumstance, if at this stage the inordinate delay is condoned unmindful of the lackadaisical manner in which the appellant has proceeded in the matter, it would also be contrary to public interest.

29. Therefore, taking into consideration all these aspects of the matter, we are of the opinion that not only the learned Single Judge was justified in holding that the writ petition *inter alia* is hit by delay and laches but the decision of the Division Bench in dismissing the LPA on

the ground of delay of 916 days is also justified and the orders do not call for interference.

30. Accordingly, the appeals being devoid of merits stand dismissed with no order as to costs. All pending applications shall stand disposed of.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

.....J.
(HRISHIKESH ROY)

New Delhi,
December 17, 2019