

**2002 C L C 1267**

**[Peshawar]**

**Before Shah Jehan Khan Shahzad Akbar Khan, JJ**

**WATER AND POWER DEVELOPMENT AUTHORITY through Chairman, WAPDA,  
WAPDA HOUSE, LAHORE---Appellant**

**versus**

**SULTAN RAJA ERAJ ZAMAN. and 133 others---Respondents**

Regular First Appeal No.1, Civil Revisions Nos.89 of 1998 and 115 of 1996, decided on 10th April, 2002.

**Limitation Act (IX of 1908)---**

---S. 14---Civil Procedure Code (V of 1908), O.XXI, R.10--Proceedings before wrong forum  
---Condonation of delay---Filing of civil suit instead of execution petition---Appellant conceded that the order passed by High Court earlier was required to be executed by making application but inadvertently or under wrong advice filed the suit---High Court advised that the appellant could move proper application for the implementation of earlier order of High Court with an application for condonation of delay caused due to proceedings before wrong forum under misconception or wrong advice---Appeal was dismissed accordingly.

Tahir Hussain Lughmani, S. Ghulam Mustafa and Abdul Qadir Khan for Appellant.

Khalid Rehman Qureshi for Respondent No. 1.

Date of hearing: 10th April, 2002.

## **JUDGMENT**

**SHAH JEHAN KHAN, J.**--- Admittedly common question is involved in Regular First Appeal No. 1 of 1998, Civil Revision 89 of 1998 and Civil-Revision No. 115 of 1996, therefore, these are disposed of by this single order.

2. Admitted facts behind these cases are that for the purposes of construction of Khan Pur Dam Project certain shops - were acquired through an award under the Land Acquisition Act. Subsequently, Supplementary Awards bearing No.98 Supplementary III, dated 9-6-1996 and No.89 Supplementary IV, dated 26-6-1996 were announced, whereby compensation for the loss of income of the shops to the owners was allowed. The Acquiring Department (WAPDA) questioned the validity of said Supplementary Awards through Writ Petition No.346 of 1997 which was heard and disposed of by judgment, dated 5-7-1983 and the following conclusion was drawn:--

"Therefore; by accepting the writ petitions, the impugned awards, to the extent they made the amount of 'loss of income' of the shops payable to the owners, are declared as without lawful authority and of no legal effect. The amount so paid to the owners is liable to be refunded. The cases are remitted to the Collector (respondent No. 1) for redetermination of the questions involved in the light of the observations made above. No order as to costs."

3. The Acquiring Department applied to the Honourable Supreme Court of Pakistan for grant of-leave to appeal which was refused.

4. In implementation of the aforesaid order of this Court the Collector redetermined the questions involved in the light of the observations through awards. For realization of the payment made in the light of the supplementary awards noted above the Acquiring Department filed separate suits in the Court of Senior Civil Judge which were found not maintainable. In R.F.A. No.1 of 1998 the amount involved was beyond the pecuniary jurisdiction of District Judge, therefore, challenged through R.F.A. No. 1 of 1998. In the civil revisions the decree passed by the trial Court dismissing the suit of the petitioners was challenged in appeal before the District Judge but maintained Hence the two revision petitions.

5. We heard the learned counsel for the parties and perused the record. During the course of arguments the learned counsel for the Acquiring Department conceded that aforesaid quoted order of this Court was required to be executed by making an application in the High Court but inadvertently or under wrong advice the Acquiring Department has filed civil suits. In this view of the matter the Regular First Appeal No.1 of 1998, Civil Revision No. 1998 and Civil Revision No. 115 of 1996 are found meritless, therefore, dismissed.

6. Before parting with this judgment we observe that the Acquiring Department can move a proper application for the implementation of the aforesaid quoted order of this Court with an application for condonation of delay caused due to proceedings in the wrong forums under misconception or wrong advice. No order as to costs.

Q.M.H./498/P

**Appeal dismissed**