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# DELAY IN DELIVERY OF JUDGEMENTS BY COURTS, CASE STUDY ON CIVIL APPEAL NO.4022/2020 IN [SLP [C] NO. 15137 2020] D. NO. 21991/2020, ORIENTAL INSURANCE COMPANY LIMITED Vs. ZAIXHU XIE AND OTHERS

Anju Bansal,  
Senior Associate, MCO Legals  
LLB, University of Mumbai

Payoja Ashesh Gandhi,  
Research Partner  
L.L.M, London School of Economics and Political Science

## 1. INTRODUCTION

1.1 Litigants in India are perennially suffering from the problems caused due to the delay in delivery of judgments by the Courts. There are many cases where judgments are reserved for orders but not delivered/ uploaded for more than six months after being reserved by the concerned judge. It is quite understandable that the Courts have shortage of staff and logistical issues during this lockdown period imposed due to the spread of COVID -19 pandemic and hence the Hon'ble judges are unable to deliver judgments swiftly. However, there are cases in which final arguments have been heard and the operative part of the order was indicated to the parties much before the onset of the pandemic, but the final order has not been prepared and uploaded on the website of the Court for more than eight to nine months. These delays have seriously prejudiced the interests of the litigants.

## 2. ORIENTAL INSURANCE COMPANY LIMITED v. ZAIXHU XIE AND OTHERS, CIVIL APPEAL NO. 4022/2020 IN SLP [C] NO. 15137/ 2020 dated December 11, 2020

### 2.1 Brief Facts:

- a. The Respondents in the present case were Petitioners before the Hon'ble Delhi High Court. The Hon'ble judge of the Delhi High Court had heard arguments in the matter on July 31, 2019 and had indicated the operative portion of his decision on the same day in open Court.
- b. However, the Hon'ble judge of the Delhi High Court had not dictated the order on July 31, 2019 nor had he reserved the case for orders.
- c. The judgment dated July 31, 2019 ('**Impugned judgment**') was uploaded on the Delhi High Court

website on May 15, 2020 i.e., after a delay of nine and a half months.

- d. The Appellant filed an Appeal against the Impugned judgment in the Hon'ble Supreme Court of India. The Hon'ble Apex Court directed the Registrar General of the Delhi High Court to submit a report informing the Apex Court about the history and the details of the proceedings before the Delhi High Court.
- e. The Report submitted by the Registrar General of the Delhi High Court stated that there was a lapse on the part of the Registry to provide the certified copy of the Impugned judgment to the Appellant due to COVID -19. It was also stated in the said report that the concerned judge of the Delhi High Court was dealing with a number of cases in the interregnum period and was also in some personal difficulty.

### 2.2 Issue:

Whether the Impugned judgment is valid considering that it was neither dictated in open court on July 31, 2019 nor was it reserved for orders on the same day and was made available to the parties only after nine and half months of the date of the judgment?

### 2.3 Judicial precedents relied on:

- a. *State of Punjab and Others v. Jagdev Singh Talwandi, (1984) 1 SCC 596 ('Jagdev Singh case')*: The Hon'ble Supreme Court in the *Jagdev Singh* case had reiterated that great care must be exercised by lower courts while passing detention orders. The Supreme Court of India highlighted the serious difficulties faced by the parties when the High Courts pronounce a final order in a matter without giving a reasoned judgment. The Supreme Court observed that if a final order is passed by a High Court without a

reasoned judgment then in most cases the aggrieved party would file a special leave petition in the Supreme Court and without any reasoning given in the impugned final order, it would be difficult for the Supreme Court to allow the implementation of the impugned order. This would lead to a stay order being granted against the implementation of the impugned order of the High Court resulting in unnecessary delay in the final disposal of the case.

- b. *Balaji Baliram Mupade and Anr v. The State of Maharashtra and Others, Civil Appeal No. 3664 of 2020 dated October 29, 2020 ('Balaji Mupade case')*: The Hon'ble Supreme Court in the Balaji Mupade case reemphasized that judicial discipline requires prompt delivery of judgments. The Court observed that in a situation where a final order is passed by a court without giving any justified reasons then the aggrieved parties are deprived of their rights to seek further judicial redressal before the appellate courts. The facts in the *Balaji Mupade case* were similar to the instant case wherein an operative order was passed by the High Court in January, 2020 and the reasoned judgment was uploaded much later on October 9, 2020 i.e., after more than nine months. The Supreme Court relied on the *Jagdev Singh* case and several other judicial decisions including the decision of the Supreme Court in *Anil Rai v. State of Bihar, 2001 (7) SCC 318 ('Anil Rai case')* on timely delivery of judgments. In the *Anil Rai case* it was inter-alia directed by the Supreme Court that judgments are normally expected to be delivered within two months of the conclusion of arguments. The Supreme Court in *Anil Rai case*, after considering number of its earlier judgments held that delay in delivery of judgments infringes the personal liberty guaranteed to every person under Article 21 of the Constitution of India. The Supreme Court in the *Balaji Mupade case* remitted the matter for reconsideration by the High Court, although by a different bench than the one which decided the impugned operative order.

#### 2.4 Decision:

The Supreme Court held in the instant case that the Delhi High Court judge had not followed the timeline prescribed for delivery of judgments in established judicial precedents of the Supreme Court of India. The Apex Court observed that if a judgment cannot be delivered on the same day of conclusion of hearing then the judge atleast needs to reserve the case for orders soon thereafter. The Court also noted that delay in delivery of a reasoned judgment in the instant case led to prejudice to the aggrieved party as it could not seek appropriate judicial remedy in the appellate court against the Impugned judgment. Due to the inordinate delay in delivering the Impugned judgment, the same was set aside by the Hon'ble Supreme Court and the matter was remitted to the Delhi High Court for reconsideration on merits without being influenced by the reasons set out in the Impugned judgment. The Supreme Court directed that the matter would not be reheard by the same bench of the Delhi High Court which passed the Impugned judgment. Hence, the Appeal was allowed and the Impugned judgment was set aside by the Supreme Court.

### 3. CONCLUSION

- 3.1 Right to speedy and a fair trial is guaranteed to all persons under Article 21 of the Constitution of India. It was held in the *Anil Rai case* that Article 21 also grants all persons the right to timely delivery of justice.
- 3.2 There is no doubt that the judges in India are overworked with not only judicial work but also non-judicial work but inordinate delays in delivery of judgments severely prejudices the rights of the litigants and violates their fundamental rights.
- 3.3 Therefore, there is an urgent need in India for not only more judges but also efficient and trained Court officers who would periodically notify the judges of pending cases that are reserved for orders and also be in charge of case management