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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: December 09, 2014

+ (i) **LA.APP. 314/2013**

SHRI RAKESH KUMAR Appellant

Through: Mr.I.S.Dahiya, Advocate

versus

UNION OF INDIA & ANR Respondents

Through: Mr.Sanjay Kumar Pathak and
Mr.Sunil Kumar Jha and Mr.
Kushal Raj, Advocates for
Respondent No.1/UOI
Mr. Abhishek Kr. Singh, Advocate
for Mr. Kunal Sharma, Advocate
for respondent No.2-DDA

+ (ii) **LA.APP. 316/2013**

SHRI RAKESH Appellant

Through: Mr.I.S.Dahiya, Advocate

versus

UNION OF INDIA & ANR Respondents

Through: Mr.Sanjay Kumar Pathak and
Mr.Sunil Kumar Jha and Mr.
Kushal Raj, Advocates for
Respondent No.1/UOI

+ (iii) **LA.APP. 157/2014**

PRAHLAD SINGH Appellant

Through: Mr.I.S.Dahiya, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Sanjay Kumar Pathak and
Mr.Sunil Kumar Jha and Mr.
Kushal Raj, Advocates for
Respondent No.1/UOI

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

CM No. 19400/2013 in LA.APP. 314/2013
CM No. 19443/2013 in LA.APP. 316/2013 &
CM No. 4736/2014 in LA.APP. 157/2014

In the above captioned three appeals, condonation of delay is sought on similar grounds and so with the consent of learned counsel for the parties, these appeals are taken up for hearing together and are being disposed of by this common judgment.

In the above captioned first two appeals, appellants' lands in village Rajapur Kalan were acquired in pursuance to Notification of 22nd August, 2001 under Section 4 of the *Land Acquisition Act* whereas in the above-captioned third appeal, the acquisition of the land in the village in question was in pursuance to Notification of 27th January, 2003 under Section 4 of the *Land Acquisition Act*. However, Reference Court in the above captioned appeals has relied upon decision of a coordinate bench of this Court in *LA.APP. No. 266/2008 Jai Singh vs. Union of India* decided on 23rd August, 2011 to assess the market value of the acquired lands in above captioned first two appeals at a uniform rate of ₹16,74,500/- per acre with statutory benefits whereas in the above

captioned third appeal, the compensation was assessed @ ₹19,43,500/- per acre. Pertinently, the variation in the rate of compensation assessed is due to the time gap between the two Notifications under Section 4 of the *Land Acquisition Act*.

To seek enhancement of compensation, learned counsel for appellants points out that the decision in *Jai Singh (supra)* is under challenge before the Apex Court and there are bright chances of enhancement of compensation in case of similarly situated persons. The learned counsel for respondent-Union of India submits that the SLPs by Union of India are also pending before the Apex Court.

Be that as it may.

Condonation of delay in filing these appeals is sought on the ground of negligence of previous counsel. Learned counsel for appellants submitted that the previous counsel had not informed the appellants about the fate of their reference petitions which has occasioned the delay. It is submitted that the delay is bonafide and unintentional and it deserves to be condoned as appellants are ready to give up the interest for the period of delay. Learned counsel for appellants submits that a complaint against the previous counsel has been recently made on 5th November, 2014 before the Bar Council of Delhi. Thus, it is submitted that there is no fault of appellants and they ought not to be denied the enhanced compensation which similarly placed claimants are likely to get from the Apex Court.

Both the sides have been heard on the applications and the material on record of these appeals is perused. It is pointed out by learned counsel for first respondent that there is no whisper in the applications in question

about the making of a complaint against the previous counsel. Learned counsel for respondent No.1 relies upon decisions of the Apex Court in *Lanka Venkateswarlu (Dead) by LRs. v. State of Andhra Pradesh and Others* (2011) 4 SCC 363 and *B. Madhuri Goud v. B. Damodar Reddy* (2012) 12 SCC 693 to submit that the discretion to condone the delay must be exercised reasonably and the entire burden cannot be put on previous counsel because there is unexplained delay of about one year in appellants contacting their previous counsel. It was pointed out that the law of limitation is a substantive law and has definite consequences on the rights and obligations of the parties and once a valuable right has accrued in favour of respondent as result of failure on the part of the claimants, then the delay ought not to be condoned lightly as it will give rise to speculative litigation.

In rebuttal, learned counsel for appellant/applicant has relied upon Apex Court's decision in *Rafiq and another v. Munshilal and Another* AIR 1981 SC 1400 to submit that because of the default of a counsel, a party should not be made to suffer and for the delay occasioned, costs can be imposed which should be directed to be recovered from the previous counsel.

The submissions advanced by both the sides have been considered and the decisions relied upon have been perused and thereafter, this Court is of the considered view that the decision of the Apex Court in *Rafiq (supra)* is of no avail to the case of appellants because in the afore-cited decision, there was no fault of the party whereas in the instant case, there is unexplained delay of more than one year, which is to the detriment to appellants/applicants.

By applying the dictum of the Apex Court in *Lanka Venkateswarlu (supra)* and *B. Madhuri Goud (supra)*, I hold that the inordinate delay of 458 days', 562 days' and 494 days' in respective appeals, does not stand reasonably explained. Hence, there is no justification for condoning the delay in filing the accompanying appeals as the aspect of speculative litigation is writ large on the face of it.

Resultantly, these applications seeking condonation of delay are hereby dismissed.

Before parting with this judgment, in order to curb the tendency of speculative litigation, it is deemed appropriate to direct the concerned Land Acquisition Collectors to ensure that after passing of the Award under *the Land Acquisition Act, 1894*, the claimants be put to notice that they need not file Reference under Section 18 of *the Land Acquisition Act, 1894* to claim higher compensation and to avail of the remedy under Section 28A of *the Land Acquisition Act, 1894* within three months from the date of the Award of the Court (upto the Supreme Court of India). The Divisional Commissioner/Secretary (Revenue), Govt. of NCT of Delhi, shall ensure that this direction is complied with in letter and spirit by the concerned Land Acquisition Collectors, who shall make the claimants aware in Hindi and in writing about Section 28A of *the Land Acquisition Act, 1894* at the time of pronouncement of the Award and also at the time of communication of the Award under Sub-Section 2 of Section 12 of *the Land Acquisition Act, 1894*.

Needless to say, this exercise is to be conducted in respect of the litigation under *the Land Acquisition Act, 1894*.

With aforesaid directions, these applications are disposed of.

LA.APP. 314/2013; LA.APP. 316/2013 & LA.APP. 157/2014

In view of order passed in CM No. 4736/2014; CM No. 19400/2013, the above captioned three appeals are dismissed as time barred as well as on merits as the compensation has been reasonably assessed by the Reference Court in the impugned judgments based upon a decision of a co-ordinate Bench of this Court in LA (APP) No.266/2008 titled *Jai Singh v. Union of India* decided on 23rd August, 2011.

These three appeals are accordingly disposed of.

**(SUNIL GAUR)
JUDGE**

DECEMBER 09, 2014
mb/s