

In the High Court of Punjab and Haryana at Chandigarh

CWP No.6465 of 2014
Date of Decision: 28.4.2015

Sumitra Devi

---Petitioner

versus

**The President, Improvement Trust, Tribunal, Yamuna Nagar and
another**

---Respondents

Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. G.C.Shahpuri, Advocate
for the petitioner

Mr. Jatinder Nagpal, Advocate
for the respondents

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition under Articles 226/227 of the Constitution of India has been preferred for modification of the award dated 19.2.1996 (Annexure P-1) and enhancement of compensation in regard to land of the petitioner acquired by the Improvement Trust, Yamuna Nagar.

2. The improvement Trust, Yamuna Nagar (for brevity 'the Trust') framed scheme No. 5-B for an area measuring 115 acres in the revenue estate of Gobindpuri within municipal limits of Yamuna Nagar under the Punjab Town Improvement Act, 1922. The Land Acquisition Collector gave

award dated 6.5.1970 and assessed value of the land at the rate of ₹1/- per square meter i.e. ₹4840/- per acre. Feeling dissatisfied, husband of the petitioner and other land owners filed reference under Section 18 of the Land Acquisition Act, 1894 (for brevity 'the Act'). The Tribunal determined market value of land at the rate of ₹10/- per square meter i.e ₹ 48,400/- per acre. Some of the land owners filed writ petitions seeking enhancement of compensation at the rate of ₹50 per square meter and the said petitions were decided on 2.9.2013(Annexure P-2) and this Court enhanced compensation from ₹10/- per square meter to ₹12/- per square meter and had also given benefits of Sections 23 and 28 of the Act. It is argued that husband of the petitioner was not aware about filing of the writ petitions by other land owners and thus did not challenge the award dated 19.2.1996 before this Court. The petitioner came to know about enhancement of compensation when the writ petitions filed by other land owners had been allowed and they applied for payment of enhanced compensation. It is vehemently argued that the mere fact that the petitioner did not prefer writ petition immediately after passing of the award by the Tribunal in February 1996 may not cause prejudice to her rights to get enhanced compensation in terms of judgment Annexure P-2 passed by this Court in the case of other land owners.

3. Counsel for the respondents, on the contrary, would contend that Devender Sehgal claiming to be legal heir of deceased Ram Lal (husband of the petitioner) had received enhanced compensation and the said fact has been concealed by the petitioner with a mala fide intention. The petitioner has approached this Court after an inordinate delay without

any justifying reasons.

4. We have heard counsel for the parties and perused the records.

5. On consideration of pleadings of the parties and submissions made by their respective counsel, there is hardly any factual controversy which requires adjudication. The primary issue that falls for determination is whether the petitioner is entitled to enhanced compensation more than 18 years after the award was passed by the Land Acquisition Tribunal (in short “the Tribunal”) on 19.2.1996.

6. Though there is no limitation for filing the writ petition under Articles 226/227 of the Constitution but still the stale claims cannot be allowed to be raked up without any tangible explanation.

7. In *Brijesh Kumar and others vs. State of Haryana and others*, 2014 AIR (SC) 1612, the award was made by the Land Acquisition Collector on 8.10.1997 assessing market value of the land of the petitioners at the rate of ₹1,75,000/- per acre. The petitioners and other persons interested filed references under Section 18 of the Act for enhancement of compensation and the reference Court made award on 7.9.2001 assessing market value of the land at the rate of ₹1,85,000/- per acre and they were also given other statutory benefits. Aggrieved, some of the persons interested filed appeals before the High Court, however, petitioners had chosen not to file appeal at the initial stage but filed the same in the year 2012 after a lapse of 10 years, 2 months and 29 days. The High Court refused to condone the delay in spite of the fact that other persons who had preferred the appeals in time had been given a higher compensation. The matter was brought before the Hon'ble Supreme Court to lay challenge to

the judgment passed by the High Court. The Hon'ble Supreme Court after noticing various judgments came to hold that they do not find any fault with the impugned judgment and the petitions lack merit. It has been further held, quoted thus:-

“It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the Court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent persons.”

8. In *State of Karnataka and others v. S.M. Kotrayya and others, 1997(1) S.C.T.359*, the Supreme Court has held to the following effect as noticed in **Brijesh Kumar and others case supra:-**

“This Court rejected the contention that a petition should be considered ignoring the delay and laches on the ground that he filed the petition just after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. The court observed that such a plea is wholly unjustified and cannot furnish any ground for ignoring delay and laches.”

9. Counsel for the petitioner is unable to justify failure of the petitioner to approach the Court for about two decades.

10. In view of the above, the petitioner is not entitled to any relief

after a long delay of 18 years.

11. For the reasons aforesaid, the petition is dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

(Ajay Kumar Mittal)
Judge

28.4.2015

PARAMJIT