

**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

**Civil Misc. No. 13873/CI of 2012 and
RFA No. 7205 of 2012 (O&M)**

Date of decision : 16.2.2015

Kamal Chand @ Kamaljit Singh and another	 Appellants
vs	
Punjab State Electricity Board and another	 Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Pritam Saini, Advocate, for the applicants-appellants.
Mr. Amit Aggarwal, Advocate, for respondent no. 1.

Rajesh Bindal, J

By filing the present appeal, the landowners are seeking enhancement of compensation for the acquired land.

Briefly the facts are that vide notification dated 2.4.1990 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') the State of Punjab sought to acquire land situated in the revenue estate of villages Chakdhera, Batarla and Tibba Tapprian, Hadbast No. 520, Tehsil Anandpur Sahib, District Ropar, for construction of Ash Dykes for stage-III, Ropar Thermal Project, Ropar. The Land Acquisition Collector (for short, 'the Collector') vide award dated 8.6.1992 assessed compensation @ ₹ 1,00,800/- per acre for barani, ₹ 1,06,960/- per acre for chahi and ₹ 56,000/- per acre for gair mumkin kinds of land. Dissatisfied with the award of the Collector, the landowners filed objections. On reference the learned court below vide award dated 3.3.1997 upheld the award of the Collector. Aggrieved against the award of learned Court below, the landowners are before this Court. Along with the appeal, an application for condonation of delay of 5,540 days in filing thereof has also been filed.

Learned counsel for the applicants-appellants submitted that delay in filing the appeal before this Court be condoned. The contention is

that delay should not come in the way for granting substantial justice and the technicality should give way to justice. The Court should be liberal in condoning the delay.

On the other hand, learned counsel for respondent no. 1 submitted that there is no ground made out for condoning huge delay of 5,540 days in filing the appeal.

Heard learned counsel for the parties and perused the record.

Hon'ble the Supreme Court in **Mewa Ram (Deceased) by his LRs and others vs State of Haryana**, (1986) 4 SCC 151 did not accept the prayer for condonation of delay in filing the appeal because in another case enhancement of compensation for the adjacent land had been made.

In **State of Nagaland vs Lipokao and others**, (2005) 3 SCC 752, Hon'ble the Supreme Court opined that proof of sufficient cause is a condition precedent for exercise of discretion by the Court in condoning the delay

In **D.Gopinathan Pillai vs State of Kerala and another**, (2007) 2 SCC 322, Hon'ble the Supreme Court opined that when mandatory provision is not complied and the delay is not properly, satisfactorily and convincingly explained, the Court cannot condone the delay on sympathetic ground only.

The issue regarding condonation of delay has been considered by Hon'ble the Supreme Court in **Basawaraj and another vs The Special Land Acquisition Officer** 2013 (10) SCALE 391, wherein it has been opined as under:-

“The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified

ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

The appeal along with the application for condonation of delay of 5,540 days was filed by the applicants-appellants before this Court on 1.8.2012 stating therein that the claim petition was filed by claimant Rakhu Ram, who expired in the year 2004. He left behind legal representatives namely Rameshwari widow, Kashmiri Lal, Sohan Lal sons, Kamla and Krishna daughters. The appellants were not aware of the filing of the reference by their father. They only came to know when one co-villager Joginder Singh received the compensation enhanced by this court. The appellants come to know that the land owned by their father was also acquired. On coming to know that their father had not filed the appeal, the appellants obtained the certified copy and filed the present appeal along with application for condonation of delay. The delay had occurred in filing the appeal due to this reason. The delay is bonafide, not intentional or willful. No affidavit of co-villager or Joginder Singh, has been filed in support of the averments made in the application. The Reference was decided on 3.3.1997 and the father of the appellants expired in the year 2004. Meaning thereby that their father was satisfied with the award of the Collector which was upheld by the learned Reference Court. It may be noticed that a number of land owners aggrieved against the award of the learned Court below filed appeals before this Court which were disposed of vide judgment dated 26.4.2006, passed in RFA No. 2748 of 1998 **Surjit Singh and others vs Punjab State and others**. Present appeal has been filed six years thereafter.

The reason given by the applicants-appellants is not sufficient to condone huge delay.

Accordingly, the application for condonation of delay is dismissed. Consequently, the appeal is also dismissed.

16.2.2015

vs.

(Rajesh Bindal)
Judge