

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

CM No.17446-CI of 2014 and
RFA No.10561 of 2014 (O&M)
Date of decision: 19.8.2015

Radha Krishan and others

..... Appellants

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Bhim Singh, Advocate, for the appellants.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

RAJESH BINDAL, J

By filing the appeal, the landowners are seeking enhancement of compensation for the acquired land. Along with the appeal an application seeking condonation of delay of 1,886 days in filing the appeal has also been filed.

Briefly the facts are that vide notification dated 29.8.1998 issued under Section 4 of the Land Acquisition Act, 1894 (for short “the Act”) the State of Haryana sought to acquire land measuring 34.21 acres situated within the revenue estate of village Wazirabad, Tehsil and District Gurgaon, for development and utilisation thereof for Sector road between Sector 42-54 and Sector 43-53 at Gurgaon. The same was followed by notification issued under Section 6 of the Act on 26.8.1999. The Land Acquisition Collector (for short, 'the Collector'), vide his award dated 24.8.2001, assessed the market value of the acquired land @ ₹ 12,00,000/- per acre for Chahi; ₹ 9,60,000/- per acre for Allabarani land; ₹ 8,40,000/- per acre for Bhood and ₹ 7,20,000/- per acre for Banjar and Gair Mumkin kind of land. Dissatisfied with the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below determined the market value of the acquired land @ ₹ 717/- per square yard.

CM No. 17446-CI of 2014

Learned counsel for the applicants/appellants submitted that in the case in hand, reference was filed through Parbhu Dayal general power of attorney of the father of the applicant/appellants No.1 to 13 and Bhagwani Devi and all the necessary steps had to be taken by Parbhu Dayal to file appeal. The applicants/appellants were in impression that the appeal had been filed against the award of the reference court by Parbhu Dayal, GAP holder. Vide judgment dated 6.8.2013, this Court enhanced the amount of compensation for the land acquired vide same notification. When the applicants/appellants enquired about their appeal, they came to know that no appeal had been filed to the extent of their share. On the other hand, RFA No.367 of 2010 was filed by the co-sharer through Parbhu Dayal. When execution of the judgment of this Court was filed, only then the applicants/appellants came to know that no appeal had been filed on their behalf. Then the applicant/appellants applied for certified copy of the award of the learned reference court and approached to this Court by filing the present appeal. Due to this reason, delay of 1,886 days has occurred in filing the appeal. He further submitted that Hon'ble the Supreme Court in Imrat Lal and others vs Land Acquisition Collector and others 2015(2) RCR (Civil) 437 and Dhiraj Singh (D) Tr. LRs. vs Haryana State and others 2015 (2) RCR (Civil) 507, has condoned the delay in filing the appeals, however, the interest for the period of delay was not awarded to the landowners. He 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 substantial justice. The Court should be liberal in condoning the delay.

On the other hand, learned counsel for the State submitted that the reason given by the applicants/appellants is frivolous and vague and as such is not sufficient for condoning huge delay in filing the appeal. However, he could not cite any judgment taking a view contrary to the judgments referred to by learned counsel for the appellants.

RFA No. 10561 of 2014

Learned counsel for the appellants submitted that claim made in the present appeal is squarely covered by the judgment of this court in

Haryana and others, decided on 6.8.2013, whereby, compensation for the acquired land was assessed @ ₹ 1,596/- per square yard.

Learned counsel for the State did not dispute the aforesaid factual position.

Heard learned counsel for the parties and perused the paper book.

After hearing learned counsel for the parties and considering the judgments of Hon'ble the Supreme Court in Imrat Lal and Dhiraj Singh (D)'s cases (supra), the application for condonation of delay in filing the appeal is allowed. Delay in filing the appeal is condoned, subject to the condition that the appellants shall not be entitled to interest on the enhanced compensation for the period of delay in filing the appeal.

Accordingly, for the reasons recorded in Santra Devi's case (supra), the present appeal is disposed of in the same terms. However, the landowners shall not be entitled to interest for the period of delay in filing the appeal i.e. 1,886 days.

(RAJESH BINDAL)
JUDGE

19.8.2015

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