

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

**CM No. 17938/CI of 2014 in/ and
RFA No. 10817 of 2014 (O&M)**

Date of decision : 29.5.2015

Kapil and others

.. Appellants

versus

State of Haryana and another

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. M. S. Kathuria, Advocate for
Mr. Rakesh Nehra, Advocate, for the applicants-appellants.

Mr. Raj Kumar Makkad, Deputy Advocate General, Haryana.

Rajesh Bindal, J.

The present appeal has been filed by the landowners seeking enhancement of compensation for the acquired land. Along with the appeal, application for condonation of 587 days delay in filing thereof has also been filed.

Briefly, the facts of the case are that vide notification issued on 13.5.2009, published on 26.5.2009, under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), State of Haryana sought to acquire the land situated within the revenue estate of village Danoda Kalan, Tehsil Narwana, District Jind, for construction of Surbra Link Channel. Notification under Section 6 of the Act was issued on 24.9.2009. The Land Acquisition Collector (for short, 'the Collector') vide award dated 29.12.2009 assessed compensation @ ₹ 8,00,000/- per acre. Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below vide award dated 23.1.2013 assessed the market value of the acquired land @ ₹ 10,00,000/- per acre. It is this award which is impugned before this court by the landowners by filing the present appeal.

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Learned counsel for the applicants-appellants submitted that he had filed bunch of appeals against the impugned award dated 23.1.2013. However, some of the appeals could not be filed inadvertently due to mistake of his clerk. When this mistake was noticed, the present appeal along with the application seeking condonation of 587 days delay in filing thereof, has been filed. 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 appellants is frivolous, 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.

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Learned counsel for the landowners submitted that the claim made in the present appeal is squarely covered by judgment of this Court in RFA No. 6159 of 2013 - Smt. Khazani and others vs State of Haryana and another, decided on 14.11.2013, whereby the compensation for the land acquired vide same notification was further enhanced to ₹ 10,94,000/- per acre.

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 is allowed. The

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 Smt. Khazani'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. 587 days.

29.5.2015
vs

(Rajesh Bindal)
Judge