

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

**CM No. 3502-CI of 2015 in/ and
RFA No. 1943 of 2015 (O&M)**

Date of decision : 29.5.2015

Vidyawti

.. Appellant

versus

State of Haryana and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Balkar Singh, Advocate, for
Mr. Ashok Kumar Sehrawat, Advocate,
the applicant-appellant.

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

Rajesh Bindal, J.

The landowner is in appeal seeking enhancement of compensation awarded to her by the learned court below for the acquired land. Along with the appeal, application for condonation of delay of 1,244 days in filing thereof has also been filed.

Briefly, the facts of the case are that State of Haryana vide notification dated 1.1.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') sought to acquire land situated in village Bohar, Tehsil and District Rohtak for development and utilization for construction of road of Sectors 2 to 6, Rohtak. The same was followed by notification dated 18.12.2002, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 16.12.2004, assessed the market value of the acquired land @ ₹ 4,50,000/- per acre for Nehri & Chahi; ₹ 3,50,000/- per acre for Gair Mumkin, Banjar Kadim, Bhodd and Barani and ₹ 5,50,000/- per acre for the land near the road upto one acre. Aggrieved against the award of the Collector, the land owner filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, assessed the

market value of the acquired land @ ₹ 8,65,435/- per acre. The aforesaid award has been impugned by the landowner in the present appeal seeking for further enhancement.

CM No. 3502/CI/2015

Learned counsel for the applicant-appellant submitted that after passing of the award by the learned court below, the applicant along with the other landowners got prepared their cases for filing the appeal. However, it transpired that in many cases the claimants before the court below had expired and their death certificates were sought to be produced. Thereafter, the brief of this case was misplaced and the same was handed over by Mr. Ramesh Malik, Advocate only on 20.9.2014. Thereafter, the present appeal along with the application for condonation of 1,244 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 appeal, however, the interest for the period of delay was not awarded to the landowner. 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 appellant 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 appellant.

RFA No. 1943/2015

Learned counsel for the landowner submitted that the claim made in the present appeal is squarely covered by judgment of this Court in RFA No. 2250 of 2011 – *Risal Singh v. State of Haryana and another*, decided on 1.9.2014, whereby the compensation was further enhanced.

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

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 appellant 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 Risal Singh's case (supra), the appeal is disposed of in the same terms. However, the landowner shall not be entitled to interest for the period of delay in filing the appeal i.e. 1,244 days.

(Rajesh Bindal)
Judge

29.5.2015

sharmila