

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No. 3424/CI of 2014 and
RFA No. 2143 of 2014 (O&M)

Date of decision : 9.7.2015

Smt. Balwinder Kaur .. Applicant-appellant
versus
The State of Haryana and others .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Deepak Sharma, Advocate, for the applicant-appellant.
Mr. Gaurav Jindal, Additional 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 seeking condonation of delay of 1,053 days in filing thereof has also been filed.

Briefly, the facts of the case are that State of Haryana vide notification dated 31.7.1996, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') sought to acquire land situated in village Dhakola Hadbast No. 135 and village Rampur Hadbast No. 155, Sub Tehsil Saha, Teshil and District Ambala for setting up of Growth Centre to develop integrated Industrial Complex. The same was followed by notification dated 30.7.1997, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 28.7.1999, assessed the market value of different kinds of land, situated in village Dhakola as under:

Kind of land	Rate per acre in ₹
Block 'A' area falling within 2 acres on either sides of Haryana State Highway	2,00,000/-
Chahi/Baag Chahi	1,75,000/-
Barani/Baag Barani	1,50,000/-
Banjar Kadeem/Gair Mumkin	1,00,000/-

For the land, situated in village Rampur, the Collector, vide its award dated 28.7.1999, assessed the compensation as under:

Kind of land	Rate per acre in ₹
Chahi/Baag Chahi	1,75,000/-
Gair mumkin rasta	1,00,000/-

Aggrieved against the awards of the Collector, the land owners 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 @ ₹ 110/- per square yard upto the depth of 2 acres situated on Panchkula-Shahbad Delhi road and ₹ 100/- per square yard for rest of the land. The aforesaid award has been impugned by the landowner in the present appeal seeking further enhancement.

CM No. 3424/CI/2014

Learned counsel for the applicant-appellant submitted that the learned Court below had decided bunch of references. The appellant had filed three references, but the Judgment Writer in the Court below inadvertently did not mention the number of reference LAC Case No. 427. On enquiry, it was informed that LAC No. 427 was decided by the learned Court below on the same day along with other references by mentioning the main case in the short award. The appellant remained under the impression that the reference has not been decided. Due to this reason, delay has occurred in filing the appeal. Thereafter, the present appeal along with application seeking condonation of 1,053 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 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. 2143/2014

Learned counsel for the appellant submitted that the claim made in the present appeal is squarely covered by judgments of this Court in RFA No. 2028 of 2011 - Kashmir Singh and others vs Stae of Haryana, decided on 25.9.2014 and Hon'ble the Supreme Court in SLP No. 4319-4356 of 2015 Somnath (D) through LRs and others vs State of Haryana decided on 23.2.2015.

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 Kashmir Singh and Somnath's cases (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. 1,053 days.

9.7.2015
vs

(Rajesh Bindal)
Judge