

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

**CM No, 5651/CI of 2015 and
RFA No. 3056 of 2015 (O&M)**

Date of decision : 29.5.2015

Chhota Devi (deceased) through LRs .. Applicants-appellants

versus

State of Haryana and others .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. P. R. Yadav, for the applicants-appellants.

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

Rajesh Bindal, J.

The landowners are in appeal seeking enhancement of compensation awarded to them by the learned court below for the acquired land. Along with the appeal, application seeking condonation of delay of 1,018 days in filing thereof has also been filed.

Briefly, the facts of the case are that State of Haryana vide notification dated 29.1.2003, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') sought to acquire land situated in villages Khandsa, Narsingpur, Mohammadpur Jharsa, Harsaru and Garauli Khurd, Tehsil and District Gurgaon for setting up of Industrial Complex to be planned and developed as Special Economic Zone ('SEZ') Phase-I. The same was followed by notification dated 28.1.2004, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 27.1.2006, assessed the market value of the acquired land of different villages at different rates. Aggrieved against the award 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, enhanced the compensation for the acquired land. The aforesaid award has been impugned by the landowners in the present appeal seeking for further enhancement.

CM No. 5651/CI/2015

Learned counsel for the applicants-appellants submitted that after the death of claimant Smt. Chhota Devi, the applicants were not brought on record as LR's. When they came to know this fact, they filed applications before the learned Reference Court, then they were granted the compensation. Filing of appeal by other LR's of Smt. Chhota Devi was not in their knowledge. When they came to know about the filing of appeal by other LR's of Smt. Chhota Devi, they filed application under order 1 Rule 10 CPC, which was got dismissed as withdrawn with liberty to avail any other alternative remedy. Thereafter, the present appeal along with application seeking condonation of 1,018 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. LR's. 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 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. 3056/2015

Learned counsel for the landowners submitted that the claim made in the present appeal is squarely covered by judgments of this Court in RFA No. 2174 of 2012 - Smt. Savitri Devi vs The Land Acquisition Collector, Gurgaon and others, decided on 23.9.2014, and of Hon'ble the Supreme Court in Civil Appeal No. 3412 of 2015 Sachin and others vs State of Haryana and others, decided on 31.3.2015.

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 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. Savitri Devi and Sachin's cases (supra), the 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. 1,018 days.

29.5.2015
vs

(Rajesh Bindal)
Judge