

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

CM No.6074-CI of 2015 and
RFA No.3395 of 2015 (O&M)
Date of decision: 28.8.2015

Hari Om and another

..... Appellants

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

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

Mr. Arun Beniwal, Deputy Advocate General, Haryana.

Mr. Pritam Singh Saini, Advocate for respondents No.3 and 4.

RAJESH BINDAL, J

The landowners are in appeal seeking enhancement of compensation for the acquired land. Along with the appeal, an application seeking condonation of delay of 1,005 days in filing thereof has also been filed.

Briefly, the facts of the case are that vide notification dated 29.1.2003 issued under Section 4 of the Land Acquisition Act, 1894 (for short "the Act"), the State of Haryana sought to acquire land measuring 6397 kanals 1 marla situated in the revenue estate of village Harsaru, 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 @ ₹ 12,50,000/- per acre for all kinds of land. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below vide award dated 17.5.2012 assessed the market value of the acquired land @ ₹ 31,50,000/- per acre. It is this award, which is impugned by the landowners before this Court.

CM No.6074-CI of 2015

Learned counsel for the applicants/appellants submitted that the applicants/appellants filed reference along with other villagers before the court below and on 17.5.2012 the learned court court disposed of a bunch of reference petitions. The applicants/appellants could not file the present appeal within the period of limitation, as they were not advised by the counsel in the lower court. The applicants/appellants came to know this fact only during the pendency of the execution application, when the other villagers told him that the appeals filed by them before this Court have been decided on 23.9.2014, whereby the compensation for the acquired land has been further enhanced. Due to this reason, delay has occurred in filing the appeal. The applicants/appellants are rustic villagers. Thereafter, the present appeal along with application seeking condonation of 1,005 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 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.3395 of 2015

Learned counsel for the landowners submitted that claim made in the present appeal is squarely covered by the judgment of this Court passed in RFA No.2174 of 2012 Smt. Savitri Devi v. The Land Acquisition Collector, Gurgaon and others, decided on 23.9.2014, wherein compensation for the acquired land of village Harsaru has been further enhanced to ₹ 40,80,000/- per acre and further enhanced by Hon'ble the

Supreme Court in Civil Appeal No.3412 of 2015 Sachin and others v. State of Haryana and others, decided on 31.3.2015.

Learned counsel for the respondents 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 Smt. Savitri Devi and Sachin's cases (supra), the appeal filed by the landowners 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. 1,005 days.

(RAJESH BINDAL)
JUDGE

28.8.2015

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