

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

RFA No. 580 of 2014 (O&M)
Date of decision : 6.11.2015

Sunil Gupta and another

... Appellants

VS

State of Haryana and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Ankit Goel, Advocate, for the appellants.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

The landowners are in appeal before this court against the award of the learned court below seeking enhancement of compensation for the acquired land. Along with the appeal, application seeking condonation of delay of 4,650 days in filing thereof has also been filed.

Briefly the facts of the case are that vide notification dated 23.2.1994 issued under Section 4 of the Land Acquisition Act, 1894 (for short "the Act"), the Government of Haryana sought to acquire land situated in the revenue estate of village Rai, Hadbast No. 69, Tehsil and District Sonapat for construction of New Fruit and Vegetable Complex at Kundli. The same was followed by notification dated 20.7.1994 issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector') vide award dated 16.11.1994 assessed the market value of the acquired land @ ₹ 1,25,000/- per acre for chahi/ nehri, ₹ 70,000/- per acre for barani/roshli, ₹ 50,000/- per acre for banjar qadim and ₹ 1,25,000/- per acre for gair mumkin kind of land. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. On reference, the learned court below assessed the market value of the acquired land of village Rai @ ₹ 40/- per square yard

for Chahi/Nehri and Gair Mumkin land; ₹ 26/- per square yard for Barani/Roshli land and ₹ 24/- per square yard for Banjar kind of land. Aggrieved against the award of the reference court, the landowners are in appeal before this Court.

Learned counsel for the landowners submitted that in the case in hand, the issue raised by the claimants was for claiming damages on account of loss of business, but the same was not even considered by the learned reference court.

As far as application seeking condonation of delay of 4,650 days in filing the appeal is concerned, it was submitted that the documents were handed over to the counsel for filing cross-objections in the appeal filed by the HSIIDC, however, he failed to do the needful. Hence, delay of 4,650 days in filing the appeal occurred. He further submitted that the company, which had initially filed objections was wound up in the year 2012.

On the other hand, learned counsel for the State submitted that the delay in the present appeal being huge and there being no justifiable reason, the same should not be condoned.

The company as well as the shareholders have different status and entity. For loss of business, cause of action of claiming compensation arose only to the company and not on its shareholders. Hence, the appeal cannot be entertained at this stage.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, objections were filed by M/s Triton Poultry Pvt. Ltd., which were disposed of by the learned reference court vide award dated 30.11.2000. It is not in dispute that in the award there is nothing about claim of damages on account of loss of business. It is not in dispute that the company, the objections filed by which, were dismissed by the learned reference court, was in existence till the year 2012, but did not choose to file the appeal. After dissolution of company, appeal by shareholder cannot be entertained. As stated in the application, RFA No.1844 of 2001 was filed by the HSIIDC impugning the award passed against M/s Triton Poultry Pvt. Ltd. though the Corporation was not aggrieved. It is pleaded in the

application that the applicants/appellants could file cross-objections under Order 41 Rule 22 CPC in the appeal filed by HSIIDC. Hence, the counsel was instructed to do the needful. The application is lacking in particulars as to which counsel was instructed to file the cross-objections. The plea sought to be raised that the company initially did not file appeal even though was aggrieved with the award passed by the reference court declining to grant compensation for the damage on account of loss of business. It was disputed that claim before the reference court was by a corporate entity managed by professionals. They were well aware of their rights to file appeal and if it is claimed that the counsel was instructed to file cross-objections, they could have followed even that to find out the status thereof, but nothing such was done. Even the bunch of appeals arising out the same award of the reference court pertaining to valuation of land were decided by this Court vide judgment dated 5.7.2011, still the applicants-appellants were not worried and the present appeal along with application seeking condonation of delay of 4,650 days in filing thereof was filed about two years thereafter.

For the reasons mentioned above, I do not find any merit either in the application seeking permission to file appeal or seeking condonation of delay of 4,650 days in filing the appeal. Hence, the same are dismissed. Consequently, the accompanying appeal is also dismissed.

(Rajesh Bindal)
Judge

6.11.2015

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