

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

**Civil Misc. No. 11195/CI of 2014 and
RFA No. 7194 of 2014 (O&M)**

Date of decision : 1.12.2015

Ramwati and others	VS	 Appellants
State of Haryana and others		 Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Sandeep Sharma, Advocate, for the appellants.
Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Rajesh Bindal, J

By filing the present appeal, the landowners are seeking enhancement of compensation for the acquired land. Along with appeal, application seeking condonation of delay of 5054 days in filing thereof has also been filed.

Briefly the facts are that vide notification dated 17.4.1989 issued under Section 4 of the Land Acquisition Act, 1894 (for short, the Act'), the State of Haryana sought to acquire land in the revenue estate of villages Ghata, Wazirabad and Haiderpur Viran, Tehsil and District Gurgaon, for public purpose. Notification under Section 6 of the Act was issued on 16.4.1990. The Land Acquisition Collector (for short, 'the Collector') vide award no.8 dated 5.7.1990 assessed the compensation for the acquired land at the following rates:-

<i>Sr. No.</i>	<i>Name of village</i>	<i>Type of land</i>	<i>Rate per acre in ₹</i>
1.	Ghata	Gair mumkin nala and johar	50,000/-
		Other land	75,000/-
2.	Wazirabad	Gair mumkin nala and johar	1,00,000/-
		Other land	1,25,000/-
3.	Haiderpur Viran	Gair mumkin nala and johar	75,000/-
		Other land	1,00,000/-

Dissatisfied with the award of the Collector, the landowners/ claimants filed objections. On reference, the learned court below vide award dated 1.4.2000 determined the market value of the acquired land @ ₹ 106.99 per square yard irrespective of nature of land and also decided the issue regarding apportionment of compensation. Aggrieved against the award of learned Court below, some of the claimants/ landowners are before this Court raising the issue regarding apportionment of compensation.

Learned counsel for the applicants-appellants 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 justice. The Court should be liberal in condoning the delay.

On the other hand, learned counsel for the State submitted that there is no ground made out for condoning huge delay of 5054 days in filing the appeal, especially when there is dispute regarding apportionment of compensation as well.

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

Hon'ble the Supreme Court in **Mewa Ram (Deceased) by his LRs and others vs State of Haryana**, (1986) 4 SCC 151 did not accept the prayer for condonation of delay in filing the appeal because in another case enhancement of compensation for the adjacent land had been made.

In **State of Nagaland vs Lipokao and others**, (2005) 3 SCC 752, Hon'ble the Supreme Court opined that proof of sufficient cause is a condition precedent for exercise of discretion by the Court in condoning the delay

In **D. Gopinathan Pillai vs State of Kerala and another**, (2007) 2 SCC 322, Hon'ble the Supreme Court opined that when mandatory provision is not complied and the delay is not properly, satisfactorily and convincingly explained, the Court cannot condone the delay on sympathetic ground only.

The issue regarding condonation of delay has been considered by Hon'ble the Supreme Court in **Basawaraj and another vs The Special Land Acquisition Officer** 2013 (10) SCALE 391, wherein it has been opined as under:-

“The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

The appeal along with the application for condonation of delay of 5054 days in filing was filed by the applicants-appellants before this Court stating therein that father of the appellants died on 13.10.2012 and the appellants were not aware about the fact of non-filing of the appeal in this court. However, when the appellants came to know about receiving of compensation by other co-sharers, they contacted the advocate and filed the present appeal. Due to this reason, the appellants could not file the appeal earlier. The delay is bonafide, not intentional or willful.

The reason given by the applicants-appellants is not sufficient to condone huge delay. The appellants are not illiterate. No reason is also forthcoming as to why they were not pursuing their case diligently.

Keeping in view the aforesaid facts, I do not find that the cause shown by the applicants-appellants for condonation of huge delay of 5054 days in filing the appeal is sufficient especially when the dispute is with private parties.

Accordingly, the application for condonation of delay is dismissed. Consequently, the appeal is also dismissed.

1.12.2015
vs.

(Rajesh Bindal)
Judge