

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

CM No.11439-CI of 2014 and
RFA No.7385 of 2014 (O&M)
Date of decision: 25.8.2015

Prem Chand

..... Appellant

Versus

The State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Anuj Balian, Advocate, for the landowner.

Mr. Arun Beniwal, Deputy Advocate General, Haryana.

RAJESH BINDAL, J

By the filing the appeal, the landowner is seeking enhancement of compensation for the acquired land. Along with the appeal, an application seeking condonation of delay of 529 days in filing thereof, has also been filed.

Brief facts of the case are that the State of Haryana vide notification dated 26.4.1995, issued under Section 4 of the Act sought to acquire land situated within the revenue estate of village Kundi, Hadbast No.366, Tehsil and District Panchkula, for development and utilisation thereof as residential and commercial area of Sector 20, Panchkula. Notification under Section 6 of the Act was issued on 25.4.1996. The Land Acquisition Collector (for short, 'the Collector') vide award dated 24.6.1997 assessed the market value of the acquired land. The landowner feeling dissatisfied with the award of the Collector, filed objections. Considering the material placed on record, the learned court below vide its award dated 30.7.2012, determined the market value of the land @ ₹ 261/- per square yard. This award has been impugned by the landowner before this Court.

CM No.11439-CI of 2014

Learned counsel for the applicant/appellant submitted that the appellant is a rustic villager and illiterate person. When the award of the learned court below was passed, the counsel in the trial court informed him

about the appeal and handed over him the complete trial court file. He further submitted that the applicant/appellant had already filed appeal bearing RFA No.205 of 2006 qua same notification. Due to weak memory of the applicant/appellant on account of old age, he was under misconception that the appeal already pending in this Court will be treated for the present land also. When on 8.4.2013, the aforesaid appeal was decided, he came to know that the order is only related to appeal against first award. Then the applicant-appellant approached the counsel to file appeal, but he could not trace the case file. Thereafter, the applicant/appellant fell sick. Due to this reason, delay of 529 days has occurred in filing the appeal. 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 applicant/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.7385 of 2014

Learned counsel for the landowner submitted that the issue raised in the present appeal is squarely covered by the judgment of this Court passed in RFA No.2695 of 2002-- Ashok Kumar v. The State of Haryana, decided on 5.11.2012, whereby compensation for the land acquired vide same notification, was further enhanced to ₹ 600/- per square yard.

Learned counsel for the State did not dispute the aforesaid fact.

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 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 Ashok Kumar's case (supra), the present 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. 529 days.

(RAJESH BINDAL)
JUDGE

25.8.2015

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