

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

**CM No.6843-CI of 2016 in/and
RFA No.2285 of 2016 (O&M)
Date of Decision : 26.08.2016.**

Uttam Chand (since deceased) through LRs

.....Appellants

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. J.C.Malik, Advocate for the appellants.

Ms. Safia Gupta, AAG, Haryana.

Mr.P.K.Mutneja, Advocate for respondent No.3.

None for respondents No.4 and 5.

ARUN PALLI, J. (Oral)

CM No.6843-CI of 2016

This is an application for condonation of delay of 5025 days in filing the accompanying appeal.

Reply, thereto, on behalf of respondent No.3-Indian Oil Corporation Limited, has been filed in the Court today, and the same is taken on record. Copy supplied.

Facts that are required to be noticed are limited.

Vide notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), published on 25.05.1993, a land measuring 22.69 acres, situated in the revenue estate of village Rajapur, District Panipat was sought to be acquired for construction of road from National Highway No.1

to Panipat Refinery. The Land Acquisition Collector, classified the acquired land into three different categories in terms of its nature and quality, and vide award dated 3.3.1994, awarded ₹ 1,50,000/- per acre for the land that was chahi/nehri, ₹1,40,000/- per acre for Barani and ₹ 1,30,000/- per acre for Banzar. The reference Court, vide its award dated 2.1.2004, in proceedings under Section 18 of the Act, enhanced the compensation to ₹1,80,000/- per acre, for chahi/nehri, ₹1,50,000/- per acre for Barani and ₹1,40,000/- per acre for Banzar Qadim.

It is maintained that the applicants/landowners happened to be the poor farmers, and were under a mis-belief that in the event of any further enhancement they too shall also be entitled thereto. That is how they did not appeal against the award rendered by the reference Court. For, it was in the month of May 2016, they learnt that this Court had further enhanced the compensation to ₹5,20,600/- per acre, in the appeals preferred by the co-landowners, the applicants purport to have approached the Land Acquisition Collector, Panipat to grant them the enhancement awarded by this Court. But, as the applicants had not preferred an appeal, before this Court, they were told that they were not entitled to any such enhancement. It is pleaded that the delay that had occurred in filing the appeal is neither intentional nor willful, for the applicants were oblivious of the technicalities of law as also the law of limitation, being simpleton and rustic villagers. Therefore, the delay in filing the appeal be condoned, lest the applicants suffer an irreparable loss.

In response, it is maintained, *inter alia*, that the explanation

being rendered by the applicants was neither cogent nor convincing, and rather an attempt to mis-lead the Court. Institution of the appeal by the applicants to seek enhancement, in terms of the decision rendered by this Court, was apparently an after thought. The ignorance of law was hardly an excuse to condone the delay in filing the appeal, particularly, when the applicants slept over their rights four years, post decision of the reference Court.

I have heard learned counsel for the parties and perused the records.

Ex facie, the accompanying appeal suffers from a gross and inordinate delay of 5025 days. The plea that the applicants were under a belief, that they too shall be entitled to enhancement, in the event the appeals preferred by the other landowners succeed, also lacks conviction. For, in that event the applicants were also not required to seek a reference under Section 18 of the Act, as they too would have been entitled to the same compensation, as awarded to the other landowners, by the reference Court. It appears, that encouraged by the enhancement awarded by this Court, the applicants instituted an appeal on 31.05.2016. But on the other hand, it is also true that in the appeals, arising out of the same acquisition, this Court has awarded enhancement to the landowners who were identically placed.

In fact, in the case of **Samiyathal and others Vs. Special Tahsildar and others**, 2015 (2) RCR (Civil) 441, the Hon'ble Supreme Court, taking cognizance of the fact that many landowners may not have

been able to seek intervention of the Court for grant of enhanced compensation due to illiteracy, poverty and ignorance, issued directions that those landowners who had not even filed the special leave petition should also be granted enhanced compensation.

Subsequently, in the case of Imrat Lal and others (supra), the Hon'ble Supreme Court in reference to its decision in Samiyathal and others (supra) condoned the delay of 1110 days in filing the Regular First Appeal (RFA), under Section 54 of the Act, before this Court. For, the landowners in the appeals arising out of the same acquisition had been granted enhancement in compensation. Albeit, the explanation set out in the application for condonation of delay was found to be extremely vague and dis-satisfactory, as is the position in the matter in hand.

It would be apposite, at this stage, to refer to the conclusion arrived at by the Hon'ble Court which read thus:-

12. "While we agree with Shri Narender Hooda that the averments contained in the application for condonation of delay were extremely vague and did not provide satisfactory explanation for the long delay of 1110 days, but it cannot be ignored that in identical matters another learned Single Judge had granted relief to the landowners by enhancing the compensation and this factor should not have been overlooked by the learned Single Judge while deciding the application for condonation of delay.

13. We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the

proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the **acquisition** matters involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or *suo motu* take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the **Land Acquisition** Officer or the Reference Court have been granted relief.

15. In view of the above discussion, the appeal is allowed, the impugned order is set aside and the delay in filing RFA No. 5477/2011 by the Appellants is condoned.

17. We appreciate the statement made by the learned Senior Additional Advocate General and hold that the Appellants shall be entitled to enhanced compensation at the rate of ₹ 1216 per sq. yard with other statutory benefits. However, it is made clear that the Appellants shall not be entitled to interest for the period of delay, i.e., 1110 days”.

Likewise, in the case of **Dhiraj Singh (D) Tr. LRs. Etc. Vs. Haryana State and Ors. Etc.** 2015(2) RCR (Civil) 507, the Hon'ble Supreme Court condone the delay of 12 years in filing the Letters Patent Appeal (LPA), before this Court, for in the appeals preferred by the other landowners, arising out of the same acquisition, the LPA Bench had enhanced the compensation to ₹ 200/- per square yard. However, to balance

the equities the Court denied interest to the appellants-landowners on the enhanced amount for the period of delay in filing the Letters Patent Appeal.

The observations recorded by the Hon'ble Court read thus:-

9. “No doubt, there is a long delay in filing the appeals. However, we find that it is a case of payment of compensation to these Appellants who were the **land** owners and which **land** was taken away by compulsory **acquisition**. However, **land** owners whose **lands** were taken over by the same notification, have been able to get the compensation @ ₹ 200/- per square yard whereas the compensation given to the appellants is @ ₹ 101 per square yard for their entire **land**.

10. It is also not in dispute that the appellants are agriculturists. Their averment that they could not prefer the LPAs because of their financial weak condition has not been disputed by the respondents. We find that in a similar situation, this Court had condoned the delay of 3240 days in the case of Market Committee, Hodal v. Krishan Murari and Ors., 1996 (1) RRR 420: 1996(1) SCC 311. There are many other cases cited by the appellants condoning the delay in similar circumstances.

12. In fact, in a matter arising out of the same notification, in Civil Appeal Nos. 617-619 of 2012, this Court had rendered a judgment dated 17.1.2012 condoning the delay of 4644 days and enhancing the compensation to ₹ 200/- per square yard. A perusal of the counter affidavit filed by the respondents makes it clear that the rate of ₹ 200/- per sq. yard fixed in Horam's case (LPA No. 920 of 1994) has been upheld by this Court by dismissing the special leave petition against the said judgment. A perusal

of the said order makes it clear that it relied upon dismissal orders passed in various other special leave petitions whereby the aforesaid rate had been upheld.

13. Thus, in almost all cases, the rate of ₹ 200/- per sq. yard has been applied by the High Court and this Court.

14. The Appellants are identically situated and there is no reason to meet out a different treatment to them. We also note that, while in these cases, the High Court had refused to condone the delay and dismissed the LPAs of the appellants, other LPAs were allowed by the High Court itself by condoning the delay of the same magnitude in the same circumstances.

15. Equities can be balanced by denying the appellants' interest for the period for which they did not approach the Court. The substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations. In the matter of compensation for **land acquisition**, we are of the view that approach of the Court has to be pragmatic and not pedantic.

18. We, accordingly, allow these appeals. Impugned orders of the High Court are set aside. Delay in filing the LPAs is condoned. It is held that the appellants shall be entitled to enhanced compensation @ ₹ 200/- per square yard. However, for the period of delay in approaching the High Court by way of LPAs, in all these cases, no interest should be paid to them. Compensation shall be worked out accordingly and paid to the appellants within a period of three months from today.

Ex facie, A plain reading of the afore extracted passages show that an emphasis is laid; that in the acquisition matters, involving claim for

award of just compensation, the court should adopt liberal approach, and, therefore, either grant time to the party to file better affidavit, to explain delay or suo motu take cognizance, of the fact that in the matters arising out of the same acquisition, the other land owners were awarded enhancement in the compensation. Thus, it is explicit that cause of a land owner, has to be viewed from a different perspective, for he is not a litigant by choice, but owing to the compulsory acquisition of his holding. And, gains nothing, but rather loses by delaying his own cause.

The matter can be analysed from yet another stand point. The provision of Section 28-A of the Land Acquisition Act, 1894 (for short “the Act”), entitles the land owner to seek redetermination of compensation awarded by the Collector, within a specified time, in the event of enhancement, by the reference court, in the matters arising out of the same acquisition. Notwithstanding that he/she/it never sought a reference under Section 18 of the Act, and also the time that had elapsed in the interregnum. Ex facie, the purport and intent of the provision is to award uniformed compensation to all the land owners, who are identically situated and circumstanced.

Concededly, in the appeals arising out of the same acquisition, this Court vide its judgment, dated 26.02.2016, in RFA No.3012 of 2003 (Smt. Angrejo Devi and others Vs. State of Haryana and others) and other connected matters, had, uniformly enhanced the compensation to ₹5,20,600/- per acre. Thus, it would be unjust to deprive the applicants of the enhancement awarded by this Court to the co-landowners. But, yes to

balance the equities the applicants shall not be entitled to any interest on the enhanced amount, for the period of delay i.e. 5025 days that had occurred in filing the appeal.

In conspectus of the above position, the delay of 5025 days in filing the accompanying appeal is condoned.

C.M. stands disposed of.

CM No. 6844-CI of 2016 in/and RFA No.2285 of 2016

Concededly, the matter in issue is squarely covered by the decision rendered by this Court in the case of Smt. Angrejo Devi and others (supra), the present appeal is also disposed of in terms thereof. However, in terms of the decision of the Hon'ble Supreme Court in the case of Imrat Lal and Dhiraj Singh (supra), the applicants shall not be entitled to any interest on the enhanced compensation for the period of delay i.e. 5025 days that had occurred in filing the appeal.

26.08.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No