

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

RFA No.3624 of 2016 (O&M)

Date of Decision.06.09.2016

Jethu Ram (since deceased) through LRsAppellants

Vs.

Union of India and othersRespondents

2. RFA No.3625 of 2016 (O&M)

Chain Singh (since deceased) through LRsAppellant

Vs.

Union of India and othersRespondents

3. RFA No.3626 of 2016 (O&M)

Dewan Chand (since deceased) through LRsAppellant

Vs.

Union of India and othersRespondents

4. RFA No.3627 of 2016 (O&M)

Gurmukh Singh (since deceased) through LRsAppellant

Vs.

Union of India and othersRespondents

5. RFA No.3628 of 2016 (O&M)

Khazan Chand (since deceased) through LRsAppellant

Vs.

Union of India and othersRespondents

Present: Mr. Vishal Aggarwal, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the
judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

C.M. Nos.10057-CI , 10061-CI, 10065-CI, 10069-CI and 10073-CI of 2016 in RFA Nos.3624 to 3628 of 2016 respectively.

The applications for impleading the legal representatives of deceased-appellant in RFA Nos.3624 to 3628 of 2016 are allowed subject to all just exceptions and the legal representatives are ordered to be brought on record.

RFA Nos.3624 to 3628 of 2016 (O&M)

Notice of motion in the applications for condonation of delay as well in the appeals.

Mr. Vivek Singla, Sr. Panel Counsel for the respondents accepts notice.

Mr. Vishal Aggarwal, learned counsel appearing for the appellants submits that the matter is squarely covered by the judgment of this Court in RFA No.2037 of 2000 and other connected RFAs and cross objections decided on 4.4.2016. As per the notification dated 15.07.1987, land in district Gurdaspur was acquired and bunch of RFAs i.e. 327 in numbers have been listed and almost majority of them i.e. 294 have been decided vide aforementioned judgment. He submits that the land acquired in respect of similar villages has been dealt with in the aforementioned judgment and the Collector had passed the composite award on 31.07.1989 whereby the market value of the land was assessed @₹35,000/- per acre for Nehri/Chahi, ₹25,000/- per acre for Barani-I and II, ₹12,500/- per acre for Banjar Jadid and ₹1000/- per acre for Gair Mumkin and ₹35,000/- per acre for Gair Mumkin Abadi. The reference Court assessed the market value of

the acquired land at ₹1,44,000/- per acre for Nehri/Chahi and other land was assessed at ₹1,12,000/- per acre i.e. ₹900/- per marla for Nehri/Chahi and ₹700/- per marla in respect of other land. However, this Court in the aforementioned judgment has enhanced the amount of compensation by applying uniform rates in respect of entire land irrespective of its nature and character @₹2453/- per marla from the date of notification under Section 4 of the Act and has also been granted statutory benefits available to them under the relevant provisions of the Act.

As regards the delay of 5978 days in filing the appeals, the counsel for the appellants relies upon judgment of Hon'ble Supreme Court in **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others (2013) 12 SCC 649** wherein the principles applicable to an application for condonation of delay are culled out, which are reproduced as under:-

- (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.*
- (ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*
- (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*
- (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*
- (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*
- (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.*

(vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

(viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

(xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

(xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

(xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

(xiv) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

(xv) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

(xvi) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

(xvii) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.

He also relies upon judgment of Hon'ble Supreme Court in

Imrat Lal and others Vs. Land Acquisition Collector and others 2014(14)

SCC 133 to contend that appellants shall not be entitled to interest for the period of delay.

In view of the aforementioned, all the appeals are allowed and the appellants shall be entitled to enhanced compensation @₹2453/- per marla from the date of notification under Section 4 of the Act. The delay of 5978 days in filing the appeals is condoned but the appellants shall not be entitled to interest for the period of delay of 5978 days, however, they shall be entitled to all other benefits.

(AMIT RAWAL)
JUDGE

September 06, 2016
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No