

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

**FAO No.1528 of 2017 (O&M)
Date of Decision : 20.04.2017.**

Sandeep Chaudhary and others

.....Appellants

Versus

Project Director, National Highway Authority of India and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. G.S.Nagra, Advocate for the appellants.

Mr. D.K.Singal, Advocate for respondents No.1 to 3.

ARUN PALLI, J. (Oral)

CM No.5116-CII of 2017

This is an application seeking condonation of delay of 1077 days in filing the accompanying appeal.

Reply to the application seeking condonation of delay in filing the accompanying appeal has been filed in the Court today and the same is taken on record. Copy furnished.

Learned counsel for the applicant/appellants submits that pursuant to the impugned judgment, dated 19.11.2013, District Judge, Jalandhar had remitted the matter to the Arbitrator for re-decision. The specific direction was issued to the Arbitrator to decide the dispute as expeditious as possible and preferably within a period of six months. However, the Arbitrator is yet to re-initiate the proceedings. Whereas, he

submits that in the appeals arising out of the same acquisition this Court had awarded enhancement to the co-landowners, vide order and judgment, dated 30.03.2016, rendered in FAO No.9678 of 2014 (Union of India and another Vs. Tehal Singh and others).

As opposed to this, learned counsel for the respondents submits that there is a gross and inordinate delay in filing the appeal and, therefore, even if the applicant is found entitled to the compensation in terms of the decision in the case of Tehal Singh (supra), he be deprived of interest for the period of delay in filing the appeal.

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

Concededly, the arbitral award dated 11.06.2010 was set aside, vide impugned judgment dated 19.11.2013. More than 3 years have gone by, and the Arbitrator is yet to proceed with the matter. On the other hand, the landowners, who were/are equally situated and circumstanced as the applicant has even been awarded enhancement by this Court in the case of Tehal Singh and others (supra). So much so, the requisite compensation in terms of the said decision has also been released by the respondents to the landowners. In fact, the order rendered by this Court in the case of Tehal Singh and others (supra) has not even been questioned any further by the respondents. Therefore, the short question that beseech an answer is; the delay that had occurred in filing the accompanying appeal is attributable to the applicant/appellants? The answer is no. In fact, having waited for determination of his claim for over 3 years the applicant was choice-less,

and rather constrained to approach this Court, for, the co-landowners were even disbursed the enhancement awarded by this Court.

Rather, the appellants are victim of non-determination of their claim by the Arbitrator. Particularly, when they are not litigant by choice but owing to compulsory acquisition of their holding.

Accordingly, the application is allowed and the delay in filing the appeal is condoned.

C.M. stands disposed of.

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Learned counsel for the parties are *ad idem* that the matter in issue is squarely covered by the order and judgment dated 15.02.2017, rendered by this Court in RFA No.6522 of 2016 (Mangal Dass Vs. Govt. of India through Secretary, Ministry of Road Transport and Surface/Highways and others), thus, the present appeal be also disposed of in the same terms.

Ordered accordingly.

20.04.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No