

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-7204-CI-2017 in/and
RFA No.4388 of 2016 (O&M)
Date of Decision : 17.07.2017.

Mahesh Singh

.....Appellant

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Adish Gupta, Advocate for the applicant/appellant.

Mr. Shivendra Swaroop, AAG, Haryana.

ARUN PALLI, J. (Oral)

CM-12330-CI-2016

This is an application seeking condonation of delay of 2974 days in filing the accompanying appeal. Notice in the application was issued to the respondents and despite repeated opportunities no reply has been filed thereto.

All what has been urged by learned counsel for the applicant is that the matter in issue is squarely covered by an order and judgment dated 07.01.2016, rendered by this Court in RFA No.3944 of 2002 (Mam Chand and others Vs. State of Haryana and another) and other connected matters, vide which, as regards the land situated in the same revenue estate of village i.e. Kidwali and for the same purpose this Court had enhanced the compensation awarded to the claimants/landowners to ₹201/- per square yard.

The factual position as set out above is not disputed by learned State counsel.

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

In the wake of the decisions of the Hon'ble Supreme Court in *Imrat Lal and others v. Land Acquisition Collector and others*, 2015(2) RCR (Civil) 437 and *Dhiraj Singh (D) Tr. LRs. v. Haryana State and others*, 2015 (2) RCR (Civil) 507, delay of 2974 days in filing the accompanying appeal is condoned. However, to balance the equities, for the period of delay in filing the appeal the applicant shall not be entitled to any interest on the enhanced compensation.

CM stands disposed of.

CM-7204-CI-2017

This is an application to place on record a copy of the order and judgment dated 07.01.2016, rendered by this Court in RFA No.3944 of 2002 (*Mam Chand and others Vs. State of Haryana and another*), vide which, this Court had enhanced the compensation awarded to the claimants/landowners to ₹ 201/- per square yard.

Notice in this application was issued to the non-applicants/respondents, reply thereto, has not been filed. For the reasons set out in the application which is duly supported by an affidavit, the same is allowed and judgment is taken on record as annexure A-1.

RFA No.4388 of 2016 (O&M)

The claimant is in appeal against the award dated 9.4.2008, rendered by the reference Court.

The facts that are required to be noticed are limited.

Vide notification dated 28.05.2001, issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') a land measuring 1.45 acres was sought to be acquired for the development and utilisation of land for construction of Rainy Wells under the HUDA Act, 1977. Final declaration under Section 6 was published on 29.05.2001. The Land Acquisition Collector, vide award No.6 dated 6.12.2001, assessed the market value of the acquired land at ₹2,43,360/- per acre. Being dissatisfied with the assessment and the compensation awarded by the Collector the claimant/landowner filed objections under Section 18 of the Act. Resultantly, the dispute was referred to the Civil Court for determination of the true market value of the acquired land. For, the appellant/claimant failed to lead any evidence his claim for enhancement was dismissed by the reference Court. That is how, as indicated above, the claimant/landowner is before this court for further enhancement.

Learned counsel for the appellant in reference to the decision of this Court, dated 07.01.2016, rendered in RFA No.3944 of 2002 (Mam Chand and others Vs. State of Haryana and another), submits that this Court had awarded compensation at ₹201/- per square yard to the claimants/landowners whose land was also situated in the same revenue estate i.e. Kidwali and was acquired for the same purpose. He submits that

although, the notification issued under Section 4 of the Act in the case of Mam Chand and others (supra) was issued on 29.11.1999 and in the present proceedings a year and half later i.e. 28.05.2001, but the appellant would not claim any increase for the time difference between the two notifications. He submits that let the appeal be disposed of in terms of the decision of this Court referred to above.

Per contra, all what has been urged by the learned State counsel is that the claimant had failed to lead any evidence before the reference Court, therefore, he is not entitled to any further enhancement. However, it is not disputed by the learned State counsel that the land that formed part of same revenue estate i.e. Kidwali, and was acquired for the same purpose i.e. for the development of land for construction of rainy wells for augmentation of water supply for Faribdabad Town, was assessed by this Court at ₹201/- per square yard.

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

Concededly, the acquired land as also the land that was under acquisition in the case of Mam Chand and others (supra) was situated in same revenue estate i.e. Kidwali. As indicated above, the purpose of acquisition in both the proceedings was common. Undoubtedly, the notification under Section 4 of the Act in the case of Mam Chand and others (supra) was issued on 29.11.1999 and in the present case on 28.05.2001. But that would hardly be a cause for any grievance in so far as the State is concerned. In any case, learned counsel for the claimant/appellant does not

claim any increase for the time difference between the two notifications and rather submits that the appeal be disposed of in terms of the decision of this Court in the case of Mam Chand and others (supra). It is not the case of the State either that the land that was under acquisition in the another proceedings and in the present case was dis-similar or was different in nature and quality. Further, for, the decision of this Court, dated 07.01.2016, rendered in the case of Mam Chand and others (Annexure A-1) was not questioned by the State any further, the same has attained finality. That being so, the argument; that claimant/landowner had not led any evidence before the reference Court pales into insignificance. Needless to assert that the appellant happened to be a small land owner. His total land holding was acquired 1 kanal 1 marla. He was/is not a litigant by choice but owing to a compulsory acquisition of his land.

In conspectus of the above, the appeal is disposed of in terms of the decision of this Court, dated 07.01.2016, rendered by this Court in RFA No.3944 of 2002, Mam Chand and others (supra). However, it is made clear that the appellant shall not be entitled to any interest on the enhanced compensation for the period of delay in filing the accompanying appeal i.e. 2974 days.

17.07.2017

*Manoj Bhutani***(ARUN PALLI)**
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No