

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

**RFA No.978 of 2016 (O&M)
Date of Decision : 31.07.2017.**

Sanjay Jain and another

.....Appellants

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Ms. Jagriti Kalia, Advocate for
Mr. Manoj Bajaj, Advocate for the appellants.

Mr. Shivendra Swaroop, AAG, Haryana
for respondents No.1, 2 and 6.

Mr. Pritam Singh Saini, Advocate for respondent No.3.

ARUN PALLI, J. (Oral)

CM No.3376-CI of 2016

This is an application for condonation of delay of 18 days in filing the accompanying appeal.

For the reasons set out in the application which is duly supported by an affidavit, the same is allowed. Consequently, the delay of 18 days in filing the accompanying appeal is condoned.

CM-3377-CI-2016

For the reasons set out in the application, the delay of 228 days that has occurred in re-filing the accompanying appeal is condoned.

C.M. disposed of.

RFA No.978 of 2016

The claimants-landowners are in appeal against the award dated 12.12.2014, rendered by the reference Court, vide which, their claim was dismissed being barred by time.

The facts that are required to be noticed are limited.

Vide notification, dated 29.01.2003, issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') land situated in village Harsaru, District Gurgaon, was sought to be acquired to set up an Industrial Complex (Special Economic Zone) Phase-I. Final declaration under Section 6 was published on 28.01.2004. Vide Award No.6, dated 27.01.2006, the Land Acquisition Collector assessed the market value of the acquired land at ₹12.5 lacs per acre. Being aggrieved by the assessment as also the compensation awarded by the Collector, the claimants preferred objections under Section 18 of the Act. Resultantly, the dispute was referred to the Civil Court for determination of the true value of the acquired land. And, as indicated above, the reference Court, vide impugned award declined the claim of the landowners, for, the objections filed by them were held to be time barred.

Ex facie, the Land Acquisition Collector, rendered award No.6 on 27.01.2006. A bare analysis of the provisions of Section 18 of the Act shows that the claimants/landowners can file objections to the award made by the Collector within a period of 6 weeks if the landowner(s) was either present at the time of pronouncement of the award or was represented before the Collector. And in other cases within a period of 6 weeks from the receipt of the notice under Section 12(2) of the Act or within 6 months

from the date of Collector's award, which period shall expires first. Indisputably, the claimants were neither represented before the Collector at the time of pronouncement of the award, nor were present themselves on 27.01.2006. Concededly, no notice under Section 12(2), in terms of clause (b) of the proviso to Section 18 was served upon the claimants either. That being so, the claimants/landowners could file objections within a period of 6 months from the date of award of the Collector. The position of law is settled that the said period of 6 months has to be calculated from the date of actual or constructive knowledge of the award made by the Collector. The case set out by the claimants in no uncertain terms was that they indeed acquired knowledge of the award dated 27.01.2006 on 12.08.2010 and therefore, the objections filed by them on 20.08.2010 were well within limitation. In the given situation, even if, the reference Court found certain discrepancies in the statement of Sanjay Jain (PW1) that could not be held to be fatal to his interest or claim. Particularly, when nothing was brought on record by the State to show that the claimants had indeed acquired knowledge actual or constructive on a specific date. The compensation awarded by the Collector was not withdrawn by the claimants/landowners even till they filed the objections under Section 18. Faced with this, learned counsel for the State fairly submits that let the matter be re-examined by the reference Court in accordance with law.

In conspectus of the above, the appeal is allowed. The impugned award, dated 12.12.2014, is set aside and the matter is remitted to the reference Court for re-decision. The parties through their respective

counsel shall appear before the District Judge on 16.08.2017. It shall be the discretion of the District Judge to either decide the matter himself or assign it to any other Court of competent jurisdiction. However, in the wake of the peculiar facts and circumstances of the present case, the reference Court is requested to decide the matter within a period of 6 months from the date the parties cause appearance before the District Judge. Needless to assert that the reference Court shall decide the matter strictly in accordance with law and on the basis of the evidence on record. And, order shall not constitute any expression of opinion on merits of the case of either party.

31.07.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No