

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

104/A

RFA No.1963 of 2017(O & M)

Date of Decision: 22.05.2017

Kehlo(deceased) through his LRs and another

....Appellant(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr. R.D. Sharma Advocate
for the appellant(s)

ARUN PALLI, J. (ORAL):

CM No.5026-CI of 2017

This is an application for condonation of delay of 3195 days in filing the accompanying appeal.

All what has been urged by learned counsel for the applicant is that in the land references arising out of the same acquisition, the reference Court had enhanced the compensation awarded to the claimants to ₹ 6000/- per marla, whereas the claim of the applicants was dismissed, for want of evidence.

Notice.

On the asking of the Court, Mr. K.K. Gupta, Addl. AG Punjab, present in the Court, accepts notice on behalf of the respondents.

The factual position as set out above, is not disputed by learned counsel for the respondents.

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

For the reasons set out in the application, as also in the wake of

the decision 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 3195 days in filing the accompanying appeal is condoned. For, the matter is being remitted to the reference Court, to balance the equities, it is clarified that in the event, the claim of the applicants is accepted or is even partially allowed, the applicants will not be entitled to any interest on the enhanced compensation, for the period of delay in filing this appeal i.e.3195 days.

CM stands disposed of.

CM No.5028-CI of 2017

For the reasons set out in the application, that is duly supported by an affidavit, same is allowed, subject to all just exceptions.

Consequently, legal representatives of deceased Kehlo son of Hero, appellant No.1 and Mahasho son of Hero- appellant No.2 who are stated to have died on 15.06.2006 and 31.08.2013 respectively, as depicted in para No. 2 & 3 of the application, are brought on record, for the purpose of pursuing the appeal only.

CM stands disposed of.

CM No.5027-CI of 2017 and RFA No.1963 of 2017

The claimants-landowners are in appeal against the award dated 15.04.2008, rendered by the reference Court, vide which their claim under Section 18 of the Land Acquisition Act, 1894, (for short 'the Act'), was dismissed, for, it was not substantiated by any evidence.

Concededly, the issues in this case were framed as back as on 04.02.2003. And, despite numerous opportunities, the appellants failed to

adduce any evidence. So much so, they failed to appear themselves, in support of their claim. Resultantly, vide order dated 15.04.2008, their evidence was closed by order. Thus, the Court was choiceless but to dismiss his claim.

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

Ex facie, the appellants have been remiss and negligent in pursuing their cause. But it is also true that they are not litigants, by their choice but owing to the compulsory acquisition of their holding. It is also not disputed that in the land references arising out of the same acquisition, the co-landowners were awarded enhancement. They, in any case, were to gain nothing by delaying their own cause. Thus, in the event, the applicants are not afforded one effective opportunity to lead and conclude their evidence, they would suffer an incalculable loss. Whether they are entitled to any further enhancement or not, would of course, be determined after they are granted an opportunity to lead evidence. In my view, the ends of justice shall be served if the impugned award is set aside and the appellants are permitted to lead evidence.

Accordingly, the appeal is allowed and as a necessary consequence, the impugned award, dated 15.04.2008, is set aside and the matter is remitted to the reference Court for re-decision in accordance with law. The appellants shall be afforded only one effective opportunity to lead and conclude their evidence on the date that shall be specified by the reference Court. In the event of any default, the matter shall not be adjourned at any cost and the evidence of the appellants shall be deemed to have been closed. Parties to the lis are directed to appear before the District

Judge on 17.07.2017. It shall be the discretion of the District Judge to either decide the reference himself or assign the matter to any other Court of competent jurisdiction. As indicated earlier, in the event, the claim of the appellants is accepted or even partially allowed, they shall not be entitled to interest on the enhanced compensation, for the period of delay i.e. 3195 days in filing the accompanying appeal.

May 22, 2017

sanjiv

**(ARUN PALLI)
JUDGE**

Whether speaking/reasoned Yes/No.
Whether reportable- Yes/No