

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

104/B

**RFA No.1964 of 2017(O & M)
Date of Decision: 22.05.2017**

Smt. Kamla Devi

....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

ARUN PALLI, J. (ORAL):

CM No.5029-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 applicant 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 applicant is accepted or is even partially allowed, the applicant shall 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.5030-CI of 2017 and RFA No.1964 of 2017

The claimant-landowner is in appeal against the award dated 15.04.2008, rendered by the reference Court, vide which his 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 appellant failed to adduce any evidence. So much so, he failed to appear himself in support of his claim. Resultantly, vide order dated 15.04.2008, his 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 appellant has been remiss and negligent in pursuing his cause. But it is also true that he is not a litigant by his choice but owing to the compulsory acquisition of his holding. It is also not disputed that in the land references arising out of the same acquisition, the

co-landowners were awarded enhancement. He, in any case, was to gain nothing by delaying his own cause. Thus, in the event, the applicant is not afforded one effective opportunity to lead and conclude his evidence, he would suffer an incalculable loss. Whether he is entitled to any further enhancement or not, would of course, be determined after he is 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 appellant is 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 appellant shall be afforded only one effective opportunity to lead and conclude his 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 appellant 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 appellant is accepted or even partially allowed, he 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