

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-2130-2017 (O&M)
Date of Decision: May 30, 2017

Smt. Badamo and others

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Govind Rana, Advocate,
for Mr. Harkesh Manuja, Advocate,
for the appellants.

ARUN PALLI, J. (ORAL)

CM-5706-CI-2017:

This is an application for condonation of delay of 1978 days in filing the accompanying appeal.

All what has been urged by learned counsel for the applicant/appellants is that the matter in issue is squarely covered by the order and judgment, dated 04.02.2016, rendered by this Court in **RFA No. 266 of 2012, titled "Joginder Singh Tokash v. State of Haryana and others", and other connected cases**, vide which the compensation awarded to the claimant/landowners was enhanced by this Court.

Notice in the application.

Ms. Safia Gupta, AAG, Haryana, and Mr. Vikas P. Singh, Advocate, present in the Court, accept notice on behalf of respondent Nos. 1 & 2 and respondent No. 3, respectively. For, respondent Nos. 4 to 8 are stated to be proforma parties, their service is dispensed with.

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 records.

In the wake of the decision of Hon'ble the Supreme Court in **Imrat Lal and others v. Land Acquisition Collector and others, 2015 (2) R.C.R. (Civil) 437** and **Dhiraj Singh (D) Tr. LRs v. Haryana State and others, 2015 (2) R.C.R. (Civil) 507**, delay of 1978 days in filing the accompanying appeal is condoned. However, to balance the equities, for the period of delay, the applicant/appellants shall not be entitled to any interest on the enhanced compensation.

Civil miscellaneous application stands disposed of.

CM-5707-CI-2017:

Allowed as prayed for.

CM-5705-CI-2017 and RFA-2130-2017:

Vide notification dated 16.01.2007, issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), the land situated in four different villages Jharli, Khanpur Khurd, Goriya and Mohanbari, Tehsil and District Jhajjar, was sought to be acquired to set up Thermal Power Project by Aravali Power Company Private Limited. The final declaration under Section 6 was published on 12.04.2007. The Land Acquisition Collector, vide four separate awards, for each of the revenue estate i.e. Award No.46 dated 12.7.2007 (for village Khanpur Khurd), Award No.45 dated 4.6.2007 (for village Goriya), Award No.37 dated 8.5.2007 (for village Jharli) and Award No.36 dated 7.5.2007 (for village Mohanbari), had assessed the market value of the acquired land at Rs.16,00,000/- per acre. Being aggrieved by the assessment as also the compensation awarded by the Collector, the claimants filed objection under Section 18 of the Act.

Resultantly, the dispute was referred to the Civil Court. On a consideration of the matter in issue, the reference Court vide an identical awards, though, rendered on separate dates declined the claim of the landowners and affirmed the assessment made by the Collector. That is how, as indicated earlier, the claimants are before this Court.

Learned counsel for the parties submit at the outset that the matter in issue is squarely covered by the order and judgment dated 04.02.2016, rendered by this Court in RFA No.266 of 2012 [Joginder Singh Tokash v. State of Haryana and others] and other connected matters, vide which this Court had enhanced the compensation awarded to the claimants/landowners to Rs.29,00,400/- per acre. However, against the decision of this Court, both the parties have preferred appeals before the Supreme Court. It is submitted that in the appeal [**SLP (C) No(s).18034 of 2016, titled “Arawali Power Company Pvt. Ltd. v. Joginder Singh Tokash and others”**], preferred by the respondent, vide order dated 26.08.2016, the Supreme Court had stayed payment of 75% of the enhanced amount to the claimants. However, the respondents were granted four weeks’ time to deposit the balance 25% of the enhanced compensation with the executing Court, which the claimants were permitted to withdraw on furnishing security. Concededly, the Supreme Court is in seisin of the dispute to date. However, during the course of hearing, learned counsel for the parties have reached a consensus; that let these appeals be disposed of in terms of the decision of this Court in the case of **Joginder Singh Tokash (supra)**, and the claimants shall not seek execution of the proposed order, but shall only be entitled to withdraw an amount equal to 25% of the enhancement awarded by this Court, till the matter is finally decided by the

Supreme Court. Further, both the parties undertake and agree to abide by the decision of the Supreme Court, whether the compensation awarded by this Court is reduced or is further enhanced.

In the wake of the above, the present appeal is disposed of in terms of the decision of this Court in the case of **Joginder Singh Tokash (supra)**. The respondents shall deposit an amount equal to 25% of the enhancement granted by this Court, with the executing Court, within eight weeks from today. And the claimants/landowners shall be entitled to withdraw the said amount on furnishing security to the satisfaction of the Executing Court. However, the balance 75% of the enhanced amount shall not be released to the claimants till the decision of the Supreme Court. For, learned counsel for the parties are ad idem that they shall abide by the decision of the Supreme Court, in both the possibilities; (a) the compensation assessed by this Court is reduced (b) there is a further enhancement in the compensation awarded to the claimants, an undertaking, in the above terms, shall be furnished by the parties before the executing Court within eight weeks from today. Copy thereof, shall also be placed on record of this Court. In the event any difficulty is faced either in construction or implementation/enforcement of this order, both the parties shall be at liberty to move an appropriate application in this appeal itself.

The appeal stands disposed of in the above terms.

(ARUN PALLI)
JUDGE

May 30, 2017
P Kapoor

Whether Speaking/Reasoned:
Whether Reportable:

YES / NO
YES / NO