

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.45 of 2017 (O&M)
Date of Decision : 20.04.2017.

Smt. Omli D/o Ram Parsad
.....Appellant
Versus
State of Haryana and others
..... Respondents
and other connected matters:

Filed By	Numbers	Total
Claimants/ landowners	RFA Nos.46 to 53, 79 to 83, 87 to 93, 95 to 104, 127 to 130, 132 to 136, 797, 1094, 1119, 1300, 1301, 1302, 1606, 571 and 572 of 2017	48

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Harkesh Manuja, Advocate for the appellant(s).
Mr. Deepender Ahlawat, Advocate for the appellant
(in RFA No.136 of 2017).
Mr. Arun Yadav, Advocate for the appellant(s)
(in RFA Nos. 1300 to 1302 of 2017)

ARUN PALLI, J. (Oral)
CM No.114-CI-2017

Allowed as prayed for.

CM No.113-CI of 2017

This is an application for condonation of delay of 1650 days in filing the accompanying appeal. All what has been urged by the learned counsel for the applicant is that the matter in issue is squarely covered by the judgment, dated 4.2.2016, rendered by this court in RFA No.266 of 2012 (Joginder Singh Tokash Vs. State of Haryana and others), and other connected matters, vide which, the compensation awarded to the

claimants/landowners was enhanced by this Court.

Notice in the application.

Ms. Safia Gupta, AAG, Haryana, present in Court, accept notice on behalf of respondents No.1 and 2 and Mr. Yogesh Chaudhary, Advocate for respondent No.3.

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 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 1650 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.

RFA No.45 of 2017

Vide this order and judgment I shall dispose of a batch of 49 appeals that have been preferred by the claimants/landowners. For, all these appeals arise out of the same acquisition and the question that requires consideration is the same, these are being disposed of by common order. However, by consensus the facts are being culled out from RFA No.45 of 2017 (*Smt. Omli D/o Ram Parsad Vs. State of Haryana and others*).

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 ₹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 4.2.2016, rendered by this Court in RFA No.266 of 2012 (Joginder Singh Tokash Vs. State of Haryana and others) and other connected matters, vide which this Court had enhanced the compensation awarded to the claimants/landowners to ₹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. Vs. 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 set of appeals are 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 four 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 four 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 these appeals itself.

The appeals are disposed of in the above terms.

20.04.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No