

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

**RA-RF-255-CI of 2016 (O&M) in/and
RFA No.2184 of 1997
Date of Decision : 17.01.2017.**

Ramdhari

.....Applicant/Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. D.K.Bhatti, Advocate for the applicant/appellant.

Ms. Safia Gupta, AAG, Haryana
for respondents No.1 to 3.

Mr. Anand Chhibbar, Sr. Advocate with
Mr. Vaibhav Sahni, Advocate for Indian Oil Corporation.

ARUN PALLI, J. (Oral)

CM No.6674-CI of 2016

This is an application for condonation of delay of 821 days in
filing the review application.

Despite repeated opportunities no reply has been filed thereto.

For the reasons set out in the application which is duly
supported by an affidavit, the same is allowed. Consequently, the delay is
condoned.

RA-RF-255-CI of 2016

This is an application seeking review of the order and judgment
dated 27.01.2014. Notice was issued to the non-applicant/respondents as

back as on 2.6.2016, and despite repeated opportunities no reply has been filed.

The facts that are required to be noticed are limited.

Pursuant to a notification issued under Section 4 of the Land Acquisition Act, 1984 (for short 'the Act') published on 25.05.1993, a land that formed part of the revenue estates of village Rajapur, Ali Asgarpur, Baroli, Begampur, Dadlana and Baholi was sought to be acquired for construction of road from National Highway No.1 to Oil Refinery Panipat. The final declaration under Section 6 was published on 28.09.1993. The Land Acquisition Collector, vide its award, dated 8.3.1994, assessed the market value of the acquired land that was chahi and gair munkin rasta malkiyati at ₹1,50,000/- per acre, and ₹50,000/- per acre for barani kadim thur land. Being aggrieved against the compensation awarded by the Collector, the claimants/landowners filed objections under Section 18 of the Act and sought a reference to the Civil Court. However, the reference Court vide its award, dated 3.4.1997, rejected the claim of the landowners, for, no further enhancement was feasible. And, even this Court vide its order and judgment dated 27.01.2014, rendered in RFA No.1995 of 1997 (Biru alias Bir Singh Vs. State of Haryana and others), and other connected matters dismissed the appeals preferred against the said award.

The case set out by the applicant; to review the order and judgment dated 27.01.2014, is; that post dismissal of his appeal by this Court, in another set of appeals arising out of the same acquisition, this Court vide order and judgment dated 26.02.2016, rendered in RFA No.3012

of 2003 (Angrejo Devi and others Vs. State of Haryana and others) and other connected matters, enhanced the compensation awarded to the landowners, to ₹5,20,600/- per acre. Therefore, even the applicant/landowner, being equally situated and circumstanced, was entitled to the same compensation. For, otherwise it would entail unjust discrimination between the same set of landowners. Reliance is placed upon a decision of the Hon'ble Supreme Court in **State of Rajasthan and another Vs. Milap Chand Jain and another etc. 2013(14) SCC 562.**

The factual position, as set out above, is not disputed by learned counsel for the non-applicant/respondents No.4.

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

Concededly, the land under acquisition in the present case as also in the case of Angrejo Devi and others (supra) was acquired pursuant to the same notification issued under Section 4, and for the same purpose. And, in the appeals arising out of the same acquisition this Court, vide order and judgment, dated 26.02.2016, rendered in Angrejo Devi and others (supra), and other connected appeals, uniformly, enhanced the compensation to ₹5,20,600/- per acre. On being specifically asked: if the Indian Oil Corporation had appealed against the judgment, dated 26.02.2016, learned counsel for respondent No.4 fairly submits that Corporation has not chosen to file any such appeal. Meaning thereby, judgment of this Court in Angrejo Devi and others (supra) has been accepted by the Corporation, and naturally the claimants-landowners therein

shall be entitled to the enhanced compensation i.e. ₹5,20,600/- per acre. Whereas the appellant shall be deprived of the enhancement granted by this Court.

In State of Rajasthan and another (supra), the Division Bench of Rajasthan High Court had dismissed the appeals preferred by the State, for, against the same judgment the Hon'ble Supreme Court had already dismissed the State's appeal as also the review petition. So in the subsequent set of appeals the Hon'ble Supreme Court observed that although the question of law was kept open in the previous matter but dismissing one set of the batch of matters but allowing the other set, is bound to result into unjust discrimination to the same class of persons.

4. “Having heard the counsel for the parties, we are of the view that although the question of law was allowed to be kept open in the earlier matter, no discriminatory treatment should be meted out to another set of teachers who were affected by one and the same order of the State of Rajasthan, wherein the order of the State was set aside by the High Court and one batch of special leave petitions against the same as also Review where dismissed. The implication of the observation in regard to the fact that the question of law was allowed to be kept open obviously was meant to be urged in a matter arising out of a subsequent event in which a similar question arose.

5. Insofar as these special leave petitions are

concerned, that is not the situation as the special leave petitions have been filed by the Petitioner-State of Rajasthan against the same impugned order, which was the subject matter of challenge in the earlier appeals, as already stated hereinabove. We are further conscious of the fact that if a view different from the earlier order was to be taken by this Court for any reason whatsoever, appropriate reasons could be assigned in this regard. But if a similar view is taken, then dismissing one set of the batch of matters but allowing the other set, is bound to result into unjust discrimination to the same class of persons. Apart from the fact that, we see no ground to differ from the view taken earlier, we have been informed that the financial implication of the payment towards Carrier Advancement Scheme is borne by the University Grants Commission to the extent of 80% and only 20% is to be borne by the Petitioner-State. If the Petitioner-State has accepted the grant to the extent of 80% from the University Grants Commission and the State has to add 20%, it is not open for the State to urge that it will not bear the 20% financial liability specially when its plea already stands rejected. If the Petitioner-State at all had any reason to deny this claim in spite of the entitlement of the Respondent-teachers, the State in the first place should not have accepted 80% grant

from the University Grants Commission. These observations have been recorded herein merely in the interest of fairness and justice to the parties as these special leave petitions are fit to be dismissed solely on the ground of parity as the High Court had also refused to entertain the writ appeals on the ground of parity which clearly implies that any other view different from the one taken earlier is bound to result into unjust and discriminatory treatment which we cannot permit to prevail”.

Undoubtedly, neither the Hon'ble Supreme Court was dealing with an issue arising in a review application nor with the principles that govern the scope of interference in review. However, the fact remains that the Court was concerned that if the subsequent appeals were allowed, that would result into unjust discrimination to the same class of persons. Ex facie, the purport and intent of the Act is to award just, fair and uniformed compensation to all the land owners, who are identically situated and circumstanced. Further, the applicant is not a litigant by choice but owing to the compulsory acquisition of his holding. Thus, it would be unjust to deprive the claimants of the enhancement awarded by this Court to the co-landowners. Thus, the reasons set out hitherto before are sufficient and the ends of justice impels me to review the order dated 27.01.2014.

In conspectus of the position as sketched out above, the review application is allowed. And, consequently, the order and judgment, dated

27.01.2014, is recalled and the appeal is restored to its original number.

RFA No.2184 of 1997

Learned counsel for the parties are *ad idem* that the matter in issue is squarely covered by the judgment dated 26.02.2016, rendered by this Court, in RFA No.3012 of 2003 (Angrejo Devi and others Vs. State of Haryana and others), vide which, in the appeals arising out of the same acquisition, this Court had enhanced the compensation to ₹5,20,600/- per acre.

Resultantly, the impugned award is set aside and the appeal is disposed of in terms of the decision of this Court in Angrejo Devi and others (supra).

17.01.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No