

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

**RFA No.3414 of 2016 (O&M)
Date of Decision:09.05.2018**

Shri Ram and others ...Appellants

Versus

The State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Vinod S. Bhardwaj, Advocate
for the appellants.

Ms. Safia Gupta, AAG, Haryana,
for respondent No.1.

Mr. Lokesh Sinhal, Advocate
for respondent No.2.

G.S. SANDHAWALIA, J. (ORAL)

CM-9446-CI-2016 in/and RFA-3414-2016:

The issue which falls for consideration in the application for condonation of delay which is directed against the Reference Court award dated 14.02.1990 is that whether a colossal delay of 26 years can be permitted to be condoned at the asking only on account of the fact that similar appeals of landowners are pending before this Court.

Under Section 5 of the Limitation Act, 1963 sufficient cause as such has to be shown for the delay, if any, and the Courts should be accordingly liberal so as the interest of justice can be advanced but can a litigant who is casual and negligent in prosecuting his case be permitted to approach this Court and get delay condoned on this ground that similar appeals are pending after having failed to act at any earlier point of time.

The application also would go to show that there is no

reference as such as to what action has been taken from 1990 onwards and only on account of a impression of other landowners the claim of the appellants is that their case had been sent for the purpose of filing the appeal. Neither any details have been given as to who was entrusted the responsibility for preferring the appeal.

It is pertinent to mention here that as many as 4 landowners are the appellants who belong to one family and Shri Chand also expired on 28.12.2015 and the civil misc. application No.9447-CI-2016 has been filed for bringing on record his LRs.

The Apex Court in similar circumstances refused to condone the delay of even 3 years in **Mewa Ram Vs. State of Haryana 1986(3) SCR 660.** Relevant portion reads as under:

“they are not persons who have been deprived of property without payment of compensation. The petitioners had all applied for reference under s.18 of the Act and the civil court by adopting a different basis for computation, namely. treating the land to be potential building site, substantially enhanced the amount of compensation. On appeal. there was further enhancement by the High Court. The petitioners have withdrawn large sums of money at each stage. For instance, the petitioner Mewa Ram withdrew on February 6, 1976 consequent upon the award of the Land Acquisition Collector Rs.1,19,000, an additional sum of Rs.28,938.20p. On March 23, 1978 after the judgment of the learned Additional District Judge, and Rs.2,75, 105.42p. after the judgment of the High Court between December 11, 1981 and February 13, 1982. The judgment of the High Court not having been appealed from has admittedly become final. Evidently, the petitioners felt

satisfied with the enhanced amount of compensation as awarded by the High Court @ Rs.12.25 per square yard because they did not apply for grant of special leave under Art. 136 of the Constitution for more than three years. Merely because this Court in the two cases of Paltu Singh and Nand Kishore enhanced the rate of compensation to Rs.17.50 per square yard, could not furnish a ground for condonation of delay under s. 5 of the Limitation Act.

Furthermore, there is no provision in the Act apart from s. 28A for reopening of an award which has become final and conclusive. No doubt s. 28A now provides for the redetermination of the amount of compensation provided the conditions laid down therein are fulfilled. For such redetermination, the forum is the Collector and the application has to be made before him within thirty days from the date of the award, and the right is restricted to persons who had not applied for reference under s. 18 of the Act. If these conditions were satisfied, the petitioners could have availed of the remedy provided under s. 28A of the Act. In that event, s. 25 would ensure to their benefit. Any other view would lead to disastrous consequences not intended by the Legislature.”

The Apex Court in **Brijesh Kumar Vs. State of Haryana, AIR 2014 SC 1612** in which there was delay of over 10 years 2 months in filing the appeal in this Court, also refused to condone the delay in land acquisition matter. The said order was also upheld by observing as under:

“11. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an

inaction or negligence would deprive a party of the protection of [Section 5](#) of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.

12. It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.”

Keeping in view the settled principles of law, that law helps those who are vigilant and not those who sleep over their rights and the law of limitation cannot be thrown out of the window, in such circumstances, merely because certain persons were vigilant as such to file the appeals and their appeals are pending would not be sufficient cause for condoning the delay in the present case specially due to the lack of explanation as such given in the application.

In the judgment in **Dhiraj Singh (deceased) through LRs Vs. Haryana State & others 2015 (2) RCR (Civil) 507**, the landowners had filed appeals against the Reference Court order but had not preferred further appeal before the Division Bench. It is only once the Division Bench had decided the issue and enhanced further compensation which had been dismissed by the Single Judge they had preferred appeals. The

earlier order of Division Bench had been upheld on earlier occasion by the Apex Court, in such circumstances, on the same parameters, the applications were allowed and delay was condoned by the Apex Court, to grant uniform compensation.

Another aspect which is to be noticed that appeals are arising out under Sections 18 & 30 of the Land Acquisition Act, 1894 and the petition is not only under Section 18 but also under Section 30 for apportionment and therefore, third parties rights are also involved. It is not only a case for enhancement of compensation and as per the short order a particular portion of compensation to a certain extent has been ordered in favour of the Gram Panchayat and therefore, by filing the appeal, the said content would also be subject matter of the adjudication and then it is not only a case for additional compensation which was the case in *Dhiraj Singh's case* (supra).

Resultantly, following the view in *Mewa Ram's case* (supra) and *Brijesh Kumar's case* (supra), this Court is of the opinion that no case is made out.

Resultantly, the applications for condonation of delay along with application for bringing on record the legal representatives of Shri Chand and the main appeal are dismissed.

09.05.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No