

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

Civil Misc. Nos.12238-CI & 12239-CI of 2016 in/and
RFA No.4357 of 2016
Date of decision: 27.2.2018

Khazani Devi (since deceased) through L. Rs. and others

...Appellants

Versus

District Revenue Officer and others

...Respondents

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

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Satyendra Chauhan, Advocate for the appellants.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

Mr. Pritam Singh Saini, Advocate for respondent no.3.

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. Nos.12238-CI & 12239-CI of 2016

The Civil Misc. Application No.12339-CI of 2016 has been filed for condonation of delay of 1487 days in filing of the accompanying appeal against the award dated 30.4.2012 whereby the Reference Court, Gurgaon granted enhancement and fixed the market value at ₹ 40,95,000/- per acre of the land situated in village Khandsa.

Civil Misc. Application No.12338-CI of 2016 has also been filed for disposal of the appeal in terms of judgment dated 31.3.2015 passed by the Apex Court in **Sachin Vs. State of Haryana 2016(5) Scale 598** wherein the order of this Court granting an amount of compensation of ₹ 68,00,000/- per acre for the land of the said revenue estate for the

notification dated 29.01.2003 by putting a cut of 15% which would come to ₹ 57,08,000/- per acre was upheld.

The application for condonation of delay has been opposed by respondent no.3-HSIIDC by filing reply on the ground that initially the appeal was filed on 13.8.2012 after a delay of 10 days and the Registry had raised objection on 4.9.2012 and returned the appeal on 30.10.2012 but the same was not refiled for a period of 3 years. The delay was intentional and had not been explained at all and therefore delay of 1487 days could not be condoned without any cogent or plausible reasons.

Counsel for the respondents argued that there was colossal delay in filing the appeal.

A perusal of the paper-book would go on to show that the certified copy of the award was applied on 10.5.2012 and the same was prepared on 25.5.2012. The appeal was filed on 13.8.2012 which was returned on 4.9.2012 with the objection that Khazani Devi and Rishi Pal had not signed the power of attorney and affidavits were to be attested. The appeal was refiled on 5.10.2012 while endorsing that the objections had been complied with. On 30.12.2012 the appeal was again returned that appellants no.9 and 10 have been impleaded vide Civil Misc. Application and power of attorney on behalf of appellants no.6 to 8 had also signed on the said date, therefore, the appeal has become time barred. The appeal was refiled on 9.9.2016.

In the application it has been mentioned that during the process of removing objections raised by the Registry, five of original claimants unfortunately passed away in the years 2012, 2013, 2014 and 2015. As the appellants belonged to the same family and as such misfortune had fallen

upon them, therefore, the appeal could not be pursued and the delay has occurred.

It is to be noticed that Khazani Devi had expired on 11.1.2012 during the pendency of Reference Petition and prior to filing of the appeal. Similarly Rishi Pal had also expired on 4.5.2008 which was also during pendency of the Reference Petition.

It is also to be noticed that during the interregnum period on 23.9.2014 Regular First Appeals pertaining to the same acquisition were decided whereby enhancement has been granted and the market value had been fixed for village Khandsa at ₹ 68,00,000/- and a cut of 15% had been imposed and would come to ₹ 57,08,000/-which has now further been upheld by the Apex Court on 31.3.2015.

In such circumstances, it is to be noticed that the Apex Court in **Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others** 1987(2) SCC 107 has held that it was not that each and every day delay has to be explained and over all picture has to be noticed and taken into consideration. In **Imrat Lal and others Vs. Land Acquisition Collector and others** 2014(14) SCC 133 and **Dhiraj Singh (D) Tr. LRs. and others Vs. Haryana State and others** 2015(1) SCC (Civil) 236, the Apex Court has held that liberal view should be taken in the cases of Land acquisition where the land owners are entitled for the same amount of compensation and a pedantic view is not to be taken. Accordingly, in the opinion of this Court sufficient cause has been shown to condone the delay in filing the appeal.

Resultantly, the Civil Misc. Application for condoning the delay in filing the appeal is allowed. The delay of 1487 days in filing of the

accompanying appeal is condoned.

RFA No.4357 of 2016(O&M)

Keeping in view the above, the present appeal is allowed in the same terms as decided by the Apex Court in **Sachin Vs. State of Haryana 2016(5) Scale 598**. The relevant part reads as under:-

12 We have been shown several maps pertaining to the area under consideration. We have also considered the reasons given by the High Court for making the cut as mentioned above.

13 There is no doubt that considering the facts and circumstances of the case, some cut is necessary for the reasons that have been given by the High Court. However, having considered the entire material on record, we are of the opinion that the cut made by the High Court appears to be quite reasonable for villages Khandsa, Narsingpur and Mohammadpur Jharsa. We find no reason to interfere with the order passed by the High Court in this regard and we endorse and uphold the view of the High Court and find it unnecessary to repeat the reasons.

15 We also make it clear that to ensure that the land owners are not put to any inconvenience, the following directions are necessary to be passed as have been passed in **Haryana State Industrial Development Corporation v. Pran Sukh and Others [(2010) 11 SCC 175]**.”

The Claimants are accordingly held entitled to compensation of ₹ 57,08,000/- per acre with all statutory benefits.

February 27, 2018
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No