

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

**CM-2738-CI-2018 in/and
RFA No.4872 of 2016
Decided on : 06.04.2018**

Rajinder Singh & others

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Bhupender Singh, Advocate, for the appellants.

G.S. Sandhawalia, J. (Oral)

The present appeal, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') is directed against the award dated 25.10.2002, passed by the Reference Court, Panipat, under Section 18 & 30 of the Act, whereby the market value of the land was assessed @ Rs.178.40 per sq.yard and the entitlement of the appellants was to the tune of 3/4th of the enhanced compensation and 1/4th was awarded to respondent No.8.

The appeal is barred by limitation by 5079 days, having been filed on 19.02.2016 and therefore, the delay is colossal and as much as 14 years has elapsed after the award of the Reference Court was passed. The explanation which has been given in the application for condoning the delay is that a counsel had been engaged who had told the appellants that the appeal was admitted and will be decided as and when it will come up for hearing. It is also the case that on 24.09.2014, the appeal filed by the State of Haryana against the respondents was dismissed by this Court in terms of the judgment passed in RFA-4778-2001 titled *Daljeet Singh & others Vs. State of Haryana & another*, arising out of the same notification. The

appellants had asked their counsel, namely, Shri Sandeep Chhabra, regarding the enhancement, who told them that the appeal is admitted and will be decided as and when it will come up for hearing. In the month of October, 2016, they came to know that the said counsel had left practice and shifted to Delhi and their appeal had never been filed.

The said explanation does not inspire any confidence in this Court as, admittedly, even after dismissal of the State's appeal in 2014, no action was taken to find out the status of the appeal and to get dispose of their case in terms of the compensation being finalized, which was arising out of the same notification. The Apex Court in **Mewa Ram (dead) by his LRs Vs. State of Haryana 1986 (3) SCR 660**, declined to grant the benefit of condonation of delay of more than 3 years, on the ground taken that similar matters were pending. Relevant portion of the judgment reads as under:

“The petitioners had all applied for reference under section 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 section [5](#) of the Limitation Act.

5. Furthermore, there is no provision in the Act apart from section [28A](#) for reopening of an award which has become final and conclusive. No doubt section [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 section [18](#) of the Act. If these conditions were satisfied, the petitioners could have availed of the remedy provided under section [28A](#) of the Act. In that event, section [25](#) would ensure to their benefit. Any other view would lead to disastrous consequences not intended by the Legislature.”

It is settled principle that the law is for the vigilant and not for those who sleep over their rights. Merely because other landowners who are vigilant and had filed the appeal in time, in the year 2002 and got a decision with other connected matters, on 03.02.2010, whereby the enhancement was done to Rs.206/- per sq.yard, would not be a ground, as such, for the appellants to claim the condonation of delay and which seems to be the only reason for the cause of action to the landowners to file the present appeal by giving the laconic explanation for condoning

the inordinate delay which has taken place.

The plea that the principle of equality would apply and that the same amount of compensation should be granted to the landowners, is an attractive proposition but the fact remains that enhancement affects a large number of persons, especially where the land has been acquired for the development purposes of a residential, industrial and commercial area, which is the case in hand. To satisfy the demand of enhancement, the burden is passed to the allottees and the subsequent purchasers and leads to unsettling issues and creating financial burden after decades, on persons who are *bona fide* purchasers and who are under the impression that the property is free from all further demands and encumbrances.

In such circumstances, this Court is of the opinion that the colossal delay of 14 years in filing the appeal is not liable to be condoned. Resultantly, the application for condonation of delay is dismissed along with the main appeal and all other CM applications.

APRIL 06, 2018
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No