

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

**RFA No.1594 of 2017 (O&M)
Decided on : 04.04.2018**

Phoolwati and others

... Appellants

Versus

Laxman Dass and others

... Respondents

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

Present : Mr. S.K. Tripathi, Advocate
for the appellants.

G.S. Sandhawalia, J. (Oral)

CM-2442-CI-2018

Application under Section 5 of the Limitation Act, 1963 read with Section 151 CPC has been filed for condonation of delay of 61 days in filing the restoration application.

In view of the averments made in the application, duly supported by the affidavit of the counsel, the same is allowed. The delay of 61 days in filing the restoration application is condoned.

CM stands disposed of.

CM-2443-CI-2018

Application under Order 41 Rule 19 read with Section 151 CPC has been filed for restoration of the main appeal which was dismissed in default on 06.12.2017.

In view of the averments made in the application, duly supported by the affidavit of the counsel, the same is allowed. The main case is restored to its original number and taken up on board today itself.

CM stands disposed of.

Main appeal (O&M)

By virtue of the impugned Award dated 02.4.2014 passed by Additional District Judge, Gurgaon, the wife of respondent Laxman Dass, namely, Pushpa, who was the petitioner in the reference petition filed under Section 30 of the Land Acquisition Act, 1894 (for short 'the Act') was held entitled to half share of compensation along with respondents No.4 to 7 regarding the amount of ₹15,23,672/- in view of the judgment and decree dated 22.07.1988 passed by Ms. Aruna Goel, the then Sub Judge, Gurgaon.

The Reference Court has noticed that the present appellants who were arrayed as respondents No.2 to 5, did not even appear in the witness box to contest the claim of the respondents, whereby the LRs of Laxman Dass were held having Dholdars rights. The revenue record was also kept in mind while coming to this finding. However, the appellants alongwith respondents No.2 & 3 were held entitled to receive the compensation to the extent of the other half share in equal shares equally on account of being successor-in-interest of Nanak Chand. Once the appellants had never appeared before the Court below to substantiate and dispel the claim filed by respondent No.1, no case is made out for interference in the order of the Reference Court, which is even otherwise barred by limitation of 988 days.

Even otherwise, the application for condonation of delay does not show any sufficient cause to condone the delay, as the appeal

was filed after appeals filed by other landowners had been decided by the Court regarding the notification in question i.e. 17.09.2004. Accordingly, the appeal alongwith application for condonation of delay stands dismissed.

APRIL 04, 2018
Naveen/sailesh

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>