

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(1) **CM-312 to 314-CI-2018 in/and**
RFA No.111 of 2018

Umang Malik & another

....Appellants

Versus

State of Haryana & another

...Respondents

(2) **CM-315 to 317-CI-2018 in/and**
RFA No.112 of 2018

Ashok Malik & another

....Appellants

Versus

State of Haryana & another

...Respondents

Date of decision:11.01.2018

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

Present: Mr.Shailendra Jain, Sr. Advocate, for
Mr.Harman Jivesh Singh, Advocate, for the applicant/appellants.

Ms.Safia Gupta, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

CM-313-316-CI-2018

Applications for dispensing with filing of certified copy of main award as well as short order dated 10.12.2012, are allowed, in view of the averments made in the applications, duly supported by affidavit.

CM-314-317-CI-2018

The present applications have been filed for condoning the delay of 1725/1750 days in filing the appeals against the award dated 10.12.2012, passed by the Addl.District Judge, Panchkula. It has been averred in the applications that appellant No.1 lives in Australia and appellant No.2, who is his sister, lives with her parents. Initially, the father, Ashok Malik was looking after the litigation and the power of attorney had been executed in his favour. On account of his old age and medical issues, he could not pursue

CM-312 to 314-CI-2018 in/and RFA-111-2018
CM-315 to 317-CI-2018 in/and RFA-112-2018

the litigation and could not travel to Chandigarh. Thus, the delay has occurred.

Notice of the applications for condonation of delay and in the main appeals, to the State.

Ms.Safia Gupta, AAG, Haryana, on the asking of the Court, accepts notice on behalf of the respondents. Copy of the paperbooks be supplied to her, during the course of the day.

In view of the averments made in the applications and in view of the proposed order this Court is going to pass, the present appeals are allowed and the delay in filing the appeals is condoned, since the State would not be at loss of its interest for paying the amount of compensation, in any manner.

CM-312-CI-2018 in RFA-111-2018 & CM-315-CI-2018 in RFA-112-2018

Applications have been filed for disposal of the appeals, being covered matter in terms of the judgment dated 14.11.2017, passed in RFA-10326-2014 titled *The Akash Co-op. Group Housing Society Ltd. Vs. State of Haryana & another* (Annexure A-1).

Senior Counsel for the appellants has pointed out that the notification in question under Section 4 of the Land Acquisition Act, 1894, dated 16.03.1999 is for the acquisition of 482.17 acres of land in Village Saketri, Tehsil & District Panchkula. Assessment was done @ Rs.374/- per Sq.yd., vide the impugned award dated 10.12.2012. It is, accordingly, pointed out that in the bunch of appeals, the lead case of which is RFA-10326-2014 (supra), other cases pertaining to the same notification have

CM-312 to 314-CI-2018 in/and RFA-111-2018
CM-315 to 317-CI-2018 in/and RFA-112-2018

been remanded to the District Judge, Panchkula, for fresh decision, on the ground that a reverse cut had been applied to work-out the value of the land and it was an unsafe manner to determine the value of the land.

Accordingly, keeping in view the fact that similar appeals, against the same notification, have been remanded, no useful purpose, as such, would be served by calling for the records, as the market value is to be determined on the basis of the sale deeds prevalent on the date of the notification under Section 4. It is to be noticed that while remanding, it has also been directed to provide 2 effective opportunities to the respective parties to lead evidence in support of their claim. Relevant portion of the remand order dated 14.11.2017 reads as under:

“In the normal parlance, in the matter of this nature, remand is the last resort and least desired, particularly when the matter was remanded even earlier. But, as demonstrated above, it appears to be the only and the inevitable option, least any prejudice is caused or interest of any of parties suffers. And in the given facts and circumstances, it is deemed appropriate, and rather necessary, to afford two effective opportunities to each of the parties to lead the required evidence in support of their respective claims. Particularly, for learned counsel for the claimant/landowners as also the State of Haryana/HUDA/Union of India/Shri Mata Mansa Devi Shrine Board submit that they shall produce the requisite site plans to enable the Reference Court to ascertain the comparability of the relied upon sale instances, and other evidence on record, with the acquired land. However, in the event of default by any of the parties, no further opportunity shall be granted at any cost. Needless to assert that nothing stated herein above shall constitute an expression of opinion on the merits of the case of either party. For, it shall be

CM-312 to 314-CI-2018 in/and RFA-111-2018
CM-315 to 317-CI-2018 in/and RFA-112-2018

decided by the Reference Court strictly in accordance with law. The parties through their respective counsel shall appear before the District Judge, Panchkula, on 15.01.2018. It shall be the discretion of the District Judge to either decide the matter himself or assign to any other Court of competent jurisdiction. But it shall be ensured that all the land references are assigned to the one Court. However, owing to the history of the case, the Reference Court is requested to decide the matter within six months from the date the parties shall cause appearance before the District Judge.

Accordingly, these appeals are disposed of in the above terms. The Registry is directed to return the LCR to the reference Court forthwith.”

Accordingly, the present applications as well as appeals are allowed, order dated 10.12.2012 is set aside and the matter is remanded to the District Judge, Panchkula, who shall ensure that it is entrusted to the same Court who is dealing with the references pertaining to notification dated 16.03.1999.

11.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*