

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

RFA No.1306 of 2018 (O&M)

Decided on : 03.07.2018

Raghvir (deceased) through his L.Rs. and others

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Ashish Gupta, Advocate for the appellants.

G.S. Sandhawalia, J. (Oral)

CM-3330-CI-2018

Application for condoning the delay of 105 days in
refiling the appeal has been filed.

In view of the averments made in the application, duly
supported by affidavit of counsel, the same is allowed. The delay of
105 days in refiling the appeal is condoned.

CM stands disposed of.

Main appeal (O&M)

Application for condoning the delay of 2557 days in filing
the appeal has been preferred, as the Award was passed on 26.02.2010.
In the application also no sufficient cause as such is made out, which
would entail this Court to further proceed with the matter, as it is the
case of the appellants themselves that they did not approach their
counsel for further action after the dismissal of the petition. Only
when they came to know in the second week of May, 2017 that other
landowners whose land had been acquired vide the same notification
had preferred an appeal, then the present appeal has been filed. Thus,
no sufficient cause itself in the application is made out to condone the
inordinate delay of almost 8 years.

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It is also to be noticed that appellant No.1 Raghvir has died on 07.04.2008 before the decision of the Reference Court and now an application for bringing on record his legal heirs has been filed, which shows the negligence and lack of interest to pursue the present appeal.

The order which is impugned as such would also go on to show that the appellants did not have any interest in prosecuting the case, as firstly they had never paid the conditional costs of ₹100/-, which had been imposed and, therefore, their right to lead evidence had been struck off under Section 35-B of Code of Civil Procedure, vide the impugned order while dismissing the petition on the ground of lack of evidence. The Reference Court has, thus, not proceeded on merits also as such on account of lack of sale deeds which the appellants were to produce in support of the claim for enhancement before the Reference Court.

In such circumstances, the present appeal is not liable to be entertained both on the grounds of delay and on merits. Resultantly, the appeal alongwith all pending civil miscellaneous applications stand dismissed in limine.

JULY 03, 2018

Naveen

Whether speaking/reasoned:

Whether Reportable:

**(G.S. SANDHAWALIA)
JUDGE**

Yes/No

Yes/No