

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

**RFA No.1709 of 2018 (O&M)
Decided on : 31.08.2018**

Kapil and others

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Atul Yadav, Advocate
for the appellants.

Ms. Vibha Tewari, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

CM-4046-CI-2018

Application under Section 5 of the Limitation Act for condonation of delay of 1368 days in filing the present appeal against the Award of the Reference Court, Gurgaon dated 21.05.2014 has been filed.

Counsel for the State had accepted notice on the last date of hearing, but no reply has been filed.

Accordingly, keeping in view the averments made in the application and in view of the fact that the interest of the State can be protected by denying the appellants the benefit of interest for 1368 days in view of the law laid down by the Apex Court in '**Imrat Lal and others Vs. Land Acquisition Collector and others' 2014 (14) SCC 133** and in '**Dhiraj Singh (D) through LRs. and others Vs. Haryana State and others' 2015 (1) SCC (Civil) 236**, the application is allowed.

The delay of 1368 days in filing the appeal is condoned, with

the condition that the appellants shall not be entitled for interest on the enhanced compensation.

CM stands disposed of.

Main appeal

Counsel has submitted that for the land falling in village Kankorla, District Gurgaon, ₹60 lakhs per acre had been awarded by the Collector. The Reference Court had enhanced the compensation to ₹1,06,48,000/- per acre alongwith statutory benefits.

This Court in RFA No.5316 of 2014 '**Pushpender Kumar and others Vs. State of Haryana and another**' decided on 27.05.2016 (Annexure A-1) for the notification dated 11.02.2010 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), has enhanced the compensation to ₹2,24,97,003/- per acre.

Counsel for the State has further pointed out that the Apex Court in **Civil Appeal Nos.11913-11945 of 2017 'State of Haryana and another Vs. Pushpendra Kumar and others'** decided on 05.09.2017, has reduced the amount by 15% to ₹1,91,22,453/-per acre. The relevant portion reads as under:-

““10. In our opinion, the deduction of 15% towards development would have been sufficient, which ought to have been made in the instant cases, in the peculiar facts of the case, considering the potentiality of the area in question and the development which has taken place all around. This order not to be treated as a precedent in any other case. Thus, we modify the determination made by the High Court to the above extent only. Let deduction be made accordingly.

11. Coming to the question of severance charges, in case there is no land left out after the acquisition, obviously, severance charges would not be granted. It is in the cases where only part of the land has been acquired and there is a severance of the adjacent/remaining area, only in those cases compensation for severance is granted. It stands set aside in the cases where there is no severance.

12. The appeals of State are partly allowed and appeals of owners are dismissed. Pending application, if any, stands disposed of. Let the amount be paid within four months from today.”

Keeping in view the above, the present appeal is also allowed in the same terms. The land owners are held entitled for the compensation @ ₹1,91,22,453/- per acre along with other statutory benefits. However, it is clarified that the appellants shall not be entitled for interest on the enhanced compensation for the delay period of 1368 days in filing the appeal.

AUGUST 31, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No