

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.2283 of 2018 (O&M)

Date of Decision: 04.12.2018

Parkasho & Ors.

... Appellants

VS.

State of Haryana & Ors.

... Respondents

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

Present: Mr. Dinesh Arora, Advocate;
Mr. Chander Shekhar, Advocate for
Mr. SP Chahar, Advocate for the appellants(s)

Mr. Shivendra Swaroop, AAG Haryana

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of RFA Nos.2283, 3122 & 4218 of 2018 as all the appeals have been preferred against common award dated 06.06.2012.

Applications for condonation of delay ranging from 1551 to 2156 days have been filed by the appellants who are aggrieved against the dismissal of their reference petitions by the Reference Court on 06.06.2012.

The Reference Court had dismissed 6 reference petitions which arose out of the award dated 03.07.2009 wherein a sum of ₹ 20 lakhs had been awarded by Land Acquisition Collector for the land which was acquired vide notification u/s 4 of the Land Acquisition Act, 1894 dated 15.12.2006. The purpose was for utilization of the land for residential, transport and communication recreation for Sector 26, Rohtak. A perusal of the impugned award would go on to show that in spite of several opportunities granted to produce the evidence, the landowners have failed to lead the same. The Reference Court gave 6 effective opportunities and even imposed cost of ₹ 200/- each in every case on 04.04.2012 and the case was adjourned to 06.06.2012. Resultantly, on account of non-payment of cost also the order was

passed. Along with the appeals, applications for additional evidence have also been filed wherein sale deeds of village Bohar having been sold to colonizers have been attached as Ex.A1 to Ex.A3. The land which has been acquired is also of village Bohar and the sale deeds as such are also dated 14.05.2006 prior to Section 4 notification also. It is further submitted that similarly-situated landowners whose land was acquired vide notification dated 15.12.2006 after leading evidence as such have got the benefit of enhancement to the tune of ₹ 25,50,680/- per acre and appeals are pending in this Court. It is accordingly submitted that the matters are liable to be remanded for afresh decision as it is settled principle that the other side can be compensated by payment of cost where the party defaults in leading the evidence in affirmative. It is further submitted that the Apex Court has held that land is the lifeline of agriculturists and therefore the State can be also protected by denying the statutory interest for the period of the delay which has occurred.

Counsel for the State has also vehemently opposed the applications and the appeals on the ground that for the negligence of the landowners, they cannot be given the benefit of statutory interest for the period of last over 6 years. The said argument is also liable to be accepted.

The Apex Court in ***Imrat Lal and others v. Land Acquisition Collector and others, 2015 (2) RCR (Civil) 437*** and ***Dhiraj Singh (D) Tr. LRs. v. Haryana State and others, 2015 (2) RCR (Civil) 507***, has taken a similar view to condone the filing of the appeals also. However, to balance the equities, for the period of delay in filing the appeal, the applicant can be held not entitled to any interest on the enhanced compensation for the above said period.

In such circumstances, this Court is of the opinion that interest of the State can be protected by directing remand and asking the Reference Court to decide afresh as *prima facie* case is made out whereby landowners could be entitled for the benefit of higher compensation on account of the land which is being acquired by the principle of *eminent domain*.

Resultantly, the applications for condonation of delay of 1551 days and 2156 days and the appeals are allowed conditionally. This Court is of the opinion that landowners shall not be entitled to benefit of statutory interest from the date of dismissal of the reference petitions from 06.06.2012 till the passing of the present order. Similarly, on account of their negligence on two counts: one for the delay for not producing the evidence and for non-payment of cost, they are liable to pay a sum of ₹ 10,000/- as costs in each reference petition to be deposited with the District Legal Services Authority. The impugned orders are accordingly set aside with the above-said condition. It is made clear that in case the proof of deposit of ₹ 10,000/- is not shown to the Reference Court, the order dated 06.06.2012 shall come back into operation.

Accordingly, all miscellaneous applications also stand disposed of in view of the above order.

Ordered accordingly.

04.12.2018

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No