

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-:-

R.F.A No. 2477 of 2018 (O&M)

Date of decision: 31.07.2018

Devender & Ors.

... Appellants

Vs.

State of Haryana & Ors.

...Respondents

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

Present: Mr. Sudhir Aggarwal, Advocate, for the appellant.

G.S.SANDHAWALIA, J. (Oral)

C.M No. 5441-CI of 2018

Application for condonation of delay of 1349 days in filing the appeal has been filed which is directed against the award passed by the Reference Court, Gurgaon, dated 28.02.2014.

Notice in the application.

On the asking of Court, Ms. Vibha Tewari, AAG, Haryana, accepts notice on behalf of the respondent -State.

In the wake of the decision of Hon'ble Supreme Court in **Imrat Lal & Ors. Vs. Land Acquisition Collector & Ors.,** 2015(2) RCR (Civil) 437 and **Dhiraj Singh (D) Tr. LRs. Vs. Haryana State and Ors.,** 2015(2) RCR (Civil) 507 and to maintain parity the delay of 1349 days in filing the accompanying appeal is condoned.

However, it is clarified that the applicants/appellants shall not be entitled to any interest on the enhanced compensation for the period of delay in filing the appeal i.e. 1349 days.

CM stands disposed of.

R.F.A No. 2477 of 2018

The present appeal under Section 54 of the Land Acquisition Act 1894, is directed against the award of Reference Court dated 28.02.2014, whereby a sum of Rs.1,81,01,217/- per acre has been awarded for the land falling in Village Badha, for the notification dated 11.02.2010.

Counsel for the State could not dispute the fact that in RFA No.5316 of 2014 "Pushpender Kumar & Ors. Vs. State of Haryana & Anr.", this Court had allowed the appeals and fixed the market value at Rs.3,75,70,419/- per acre. The said judgment has been modified by the Apex Court in **Civil Appeal Nos. 11913-11945 of 2017 "State of Haryana & Anr. Vs. Pushpender Kumar & Ors."** on 05.09.2017 and 15% reduction has been made. The operative part of the order of the Apex Court read 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."

Resultantly, the market value thus would come out to Rs.3,19,34,857 per acre. Accordingly, the appeal is allowed by granting the said market value with all other statutory benefits except the interest on the period of delay i.e. 1349 days.

July 31, 2018
tripti

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No