

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

RFA No.2508 of 2018 (O&M)

Date of Decision:30.05.2018

Balbir

...Appellant

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Kamal Singh, Advocate
for the appellant.

Ms. Safia Gupta, AAG, Haryana.

G.S. SANDHAWALIA, J. (ORAL)

CM-5512-CI-2018

Appellant was appearing in person but power of attorney has also been filed by Mr. Kamal Singh, Advocate who has put in appearance.

Application has been filed for condonation of delay of 3550 days in refilling the appeal for enhancement. In the application it has been averred that the appeal was filed within limitation against the award dated 01.04.2008 passed by the Additional District Judge, Sonapat. It has been returned on 04.08.2008 with some objections and the appellant was under impression that the same had been refilled and was lying admitted. The counsel did not inform that he had not refilled the appeal and resultantly, the delay in refilling is sought to be condoned after deducing 40 days as permissible. Application is supported by affidavit, giving the details of the counsel also.

Notice in the application and main appeal.

Ms. Safia Gupta, AAG, Haryana accepts notice on behalf of

the State.

It is contended by the counsel for the appellant that the matter stands covered by the judgment in RFA No.3328 of 2008 titled as **“Shingari Devi (deceased) through LRs and others Vs. State of Haryana and others”** whereby the market value has been enhanced to Rs.10,00,000/- per acre for the land abutting GT road upto a depth of 2 acres and Rs.5,80,000/- (rounded off) per acre for rest of the land located behind that.

Paper-book has been perused and as per contention of counsel for the appellant it transpires that the appeal was filed on 01.07.2008 and some objections have been raised by the office on 04.08.2008 and thereafter it was only refilled on 24.05.2018 due to this reason the delay has taken place. The connected appeals were decided on 03.11.2015.

It has further been contended that brother of the appellant namely Ram Niwas had filed RFA No.3596 of 2015 which was decided on 24.02.2016 (Annexure A-2) in terms of RFA No.3430 of 2015 titled as **Narender Vs. State of Haryana and others**. The said case had been disposed of in terms of RFA No.3328 of 2008 titled as *Shingari Devi (supra)*. It is thus apparent that it is only at that point of time the appellant has come to know that his case had not been decided. Therefore, the sufficient cause has been shown out to condone the delay of 3550 days in refilling. Accordingly, the application is allowed.

CM stand disposed of.

Main case:

The Reference Court, Sonapat vide award dated 01.04.2008 has granted the compensation @ Rs.4.26 lakhs per acre for the

notification in question dated 21.11.2002. In *Shingari Devi (supra)* the appeals of the landowners were allowed by holding as under:

“14. Considering the aforesaid facts, in my opinion, the landowners deserve to be granted increase @ 12% per annum for the time gap of five years on the value of the land as assessed in Umed Singh's case (supra), where notification under Section 4 of the Act was issued on 17.9.1997 pertaining to the adjoining land and applying the same principle regarding belting, the landowners are held entitled to compensation @ ₹ 10,00,000/- per acre for the land abutting GT road upto a depth of 2 acres and ₹ 5,80,000/- (rounded off) per acre for rest of the land located behind that. The landowners shall also be entitled to all the statutory benefits available to them under the Act.

15. For the reasons mentioned above, the appeals filed by the landowners are allowed and the appeals filed by HSIIDC are dismissed.”

Counsel for the State could not dispute the said fact and the fact whether the value has been varied by the Apex Court. Resultantly, keeping in view the principle of parity the present appeal is also disposed of in the terms of *Shingari Devi (supra)* along with all statutory benefits.

30.05.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No