

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

- (1) RFA No.3504 of 2017 (O&M)**
- Jai Narayan ... Appellant
Versus
State of Haryana & another ... Respondents
- (2) RFA No.3505 of 2017 (O&M)**
- Bharto Devi ... Appellant
Versus
State of Haryana & another ... Respondents
- (3) RFA No.3506 of 2017 (O&M)**
- Jagdish & others ... Appellants
Versus
State of Haryana & others ... Respondents
- (4) RFA No.3507 of 2017 (O&M)**
- Ram Singh (deceased) th. his LRs & others ... Appellants
Versus
State of Haryana & another ... Respondents
- (5) RFA No.3508 of 2017 (O&M)**
- Rati Ram (deceased) th. his LRs & others ... Appellants
Versus
State of Haryana & others ... Respondents
- (6) RFA No.3510 of 2017 (O&M)**
- Maha Singh & others ... Appellants
Versus
State of Haryana & another ... Respondents
- (7) RFA No.497 of 2018 (O&M)**
- Jai Karan (deceased) th. his LRs ... Appellants
Versus
State of Haryana & others ... Respondents

Decided on : 20.11.2018

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

Present : Ms.Anita Balyan, Advocate, for the appellants.

Ms.Vibha Tewari, AAG, Haryana.

Mr.Pritam Singh Saini, Advocate, for the respondent-HSIIDC.

G.S. Sandhawalia, J. (Oral)

Applications for condonation of delay

Applications have been filed for condonation of delay ranging from 1712 to 1738 days in filing the present appeals. It has been averred that against the award, the landowners had decided to engage one counsel and had given money and signed the vakalatnama. They were under the impression that their appeals had been filed and thus, the delay, as such, had occurred.

The applications have been opposed by filing reply on behalf of respondent No.2, on the ground that the appellants had waited for 5 ½ years and had not made any enquiry and therefore, no sufficient cause, as such, is made out to condone the delay.

Counsel for the landowners further submits that for the notification under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') in question dated 19.11.2004, by invoking the urgency provisions under Section 17 of the Act, for the construction and development of Express Highway Phase-VI, connecting National Highways No.1, 10, 8 and 2, land of six Villages Badli, Bupania, Dariyapur, Ismailpur, Lagarpur, Mundakhera, Tehsil Bahadurgarh, District Jhajjar was acquired. It is submitted that for four villages, in

RFA-3504 to 3508 & 3510-2017 (O&M) & RFA-497-2018 (O&M)

RFA1427-2014 titled *Rajit & another Vs. State of Haryana & others*, decided on 12.02.2016, this Court had enhanced the compensation from Rs.12,50,000/- per acre, which had been awarded to all the villages, to Rs.19,91,300/- per acre, which was liable to be awarded for the other two villages and therefore, landowners would be entitled for the benefit of the same amount of compensation. It is submitted that in such circumstances, though no evidence was led before the Courts below, the said decision would have a relevant bearing on the matter and the same may be remanded back to the Reference Court, for fresh decision, since no evidence has been led in the present set of cases.

Keeping in view the cumulative factors and the fact that the interest of the respondents can be protected by not granting the interest for the period ranging from 1712 to 1738 days, in view of the judgments passed by the Apex Court in **Imrat Lal and others vs. Land Acquisition Collector and others, 2014 (14) SCC 133** and **Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2014 (14) SCC 127**, this Court is of the opinion that since the land had been acquired on the principle of Eminent Domain and for setting up the national infrastructure, the applications are liable to be allowed, subject to certain conditions, as the landowners have been negligent on two occasions, which has led to the litigation.

Accordingly, the present applications are allowed, subject to the condition that in case the reference petitions are decided in their favour and enhancement is granted, they shall not be granted the benefit of interest for the said period of delay.

CMs stand disposed of.

Main appeals

As noticed above, the appeals stem from a common award of the Reference Court, Jhajjar dated 13.12.2011, vide which, for the land of Village Lagarpur, the amount assessed is to the tune of Rs.12,50,000/- per acre was upheld by the Reference Court, on the ground that no sale deed of the acquired land or adjoining land was proved by the landowners and in the absence of the evidence, the market value was maintained.

As noticed above, the acquisition was for the Villages Badli, Bupania, Dariyapur, Ismailpur, Lagarpur, Mundakhera, Tehsil Bahadurgarh, District Jhajjar. Apart from Ismailpur and Lagarpur, for the other four villages, a Co-ordinate Bench, in Rajit (supra), enhanced the market value on the basis of the policy of the State Government, after taking into account the location of the land of the villages.

Counsel for the landowners, as such, has sought to raise an argument that the land of Village Lagarpur is better situated and therefore, the landowners would also be entitled for the same amount of compensation, if not more.

This factual aspect will necessarily have to be re-gone into by the Reference Court, which will also have the benefit of the judgment passed by this Court and further upheld in SLP(C) ...(CC)-16577-16596-2016 titled *Ramphal @ Rampal & another Vs. State of Haryana & others*, decided on 14.09.2016. The landowners have been totally slack, as such, in leading any evidence, to show the market value of the land on the date of the notification and it is only on account of the fact that their

land had been acquired by the State that they would be entitled for the same amount of compensation as similarly situated landowners.

Accordingly, the present appeals are disposed of and the matter is remanded to the Reference Court, on the following conditions, so that the landowners are not gravely prejudiced on account of having lost their agricultural land which has been held to be the lifeline of the agriculturists by the Apex Court in **K.Subbarayudu & others Vs. Special Deputy Collector (Land Acquisition) (2017) 8 SCALE 61:**

- (i) For the negligence of the landowners, they shall pay costs of Rs.10,000/- per appeal, which shall be deposited with the District Legal Services Authority and on deposit of the same, the Reference Court shall proceed to decide the matter afresh by giving them adequate opportunity to produce additional evidence in support of their claim. In case of non deposit of costs, the present appeal(s) shall be deemed to be dismissed,
- (ii) In case the amount is enhanced, they shall not be entitled for the benefit of interest on the enhanced compensation, for the period ranging from 1712 to 1738 days.

November 20th, 2018
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No