

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

**RFA Nos.3616 of 2017(O&M)
Date of Decision:27.04.2018**

1. DARSHNA DEVI

....Appellant(s)

Versus

STATE OF PUNJAB AND OTHERS

...Respondent(s)

**RFA Nos.3700 of 2017(O&M)
Date of Decision:27.04.2018**

2. MOHINDER SINGH

....Appellant(s)

Versus

STATE OF PUNJAB AND OTHERS

...Respondent(s)

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

G.S. SANDHAWALIA, J. (ORAL)

Present: Mr.Jagjeet Singh, Advocate for
Mr.R.S.Manhas, Advocate for the applicant/appellants.

Ms.Akshita Chauhan, AAG, Punjab

**CM No.3372-CI-2018 in RFA No.3616-2017 &
CM No.3076-CI-2018 in RFA No.3700-2017**

Applications filed under section 151 CPC for placing on record
reply by way of affidavits of Anurag Grover, Executive Engineer, Project &
RM Division, RSD- Shahpurkandi Township, are allowed as prayed for.

CMs stand disposed of.

Delay applications

This judgement shall dispose of two delay applications alongwith the main cases as the common question of law & facts are involved. Facts are taken from RFA No.3616 of 2017.

The present appeals have been directed against the award of the Reference Court dated 30.11.2010, whereby Reference Court, Gurdaspur has awarded amount ranging between Rs.1,10,000/- to Rs.1,50,000/- for the structure standing on the land acquired. The appeals are barred by limitation by as much as 2136 days/ 2156 days.

The applications have been opposed by the State on the ground that no sound reason has been given for delay in filing the appeals and these are beyond limitation of 90 days. The ground which has been taken in the applications for condonation of delay also goes on to show the negligence and the lack of interest of the appellants to file the appeals. Therefore, this court is of the opinion that the delay in filing of the appeals which have been filed on 16.02.2017 i.e. almost 6½ years after the award was passed, is not liable to be allowed. Even in the applications it has been averred that the applicant applied for the certified copy of the order on 7.1.2011 which was prepared on 9.1.2011 and was collected on 19.2.2011. The applicant was informed that 90 days was time for filing the appeal but the counsel was contacted on 13.02.2017 for filing the appeal. It is in such circumstances on account of the fact that applicant is a poor villager and had lost his residential house, condonation of delay is sought for.

In such circumstances, no sufficient cause as such is made out and mere argument which is raised that pendency of similar matters would be a ground as such to condone the delay, can not be accepted. More so the fact that pendency is of the cases of the market value in question and not for structure and even otherwise the case of the structure to be assessed and is to be gone into separately in each and every case as to what is the construction which had been raised and what was the evidence led regarding the value of the construction.

The Apex Court in *Mewa Ram (dead) by his LRs Vs. State of Haryana 1986 (3) SCR 660*, declined to grant the benefit of condonation of delay of more than 3 years, on the ground taken that similar matters were pending. Relevant portion of the judgment reads as under:

“The petitioners had all applied for reference under section 18 of the Act and the civil court by adopting a different basis for computation, namely treating the land to be potential building site, substantially enhanced the amount of compensation. On appeal there was further enhancement by the High Court. The petitioners have withdrawn large sums of money at each stage. For instance, the petitioner Mewa Ram withdrew on February 6, 1976 consequent upon the award of the Land Acquisition Collector Rs.1,19,000, an additional sum of Rs.28,938.20p On March 23, 1978 after the judgment of the learned Additional District Judge, and Rs.2,75,105.42p after the judgment of the High Court between December 11, 1981 and February 13, 1982. The judgment of the High Court not having been appealed from has admittedly become final. Evidently, the petitioners felt satisfied with the enhanced amount of compensation as awarded by the High Court @ Rs.12.25 per square yard because they did not apply for grant of special leave under [Art. 136](#) of the Constitution for more than three years. Merely because this Court in the two cases of Paltu Singh and Nand Kishore enhanced the rate of compensation to Rs.17.50 per square yard, could not furnish a ground for condonation of delay under section 5

of the Limitation Act.

5. *Furthermore, there is no provision in the Act apart from section 28A for reopening of an award which has become final and conclusive. No doubt section 28A now provides for the redetermination of the amount of compensation provided the conditions laid down therein are fulfilled. For such redetermination, the forum is the Collector and the application has to be made before him within thirty days from the date of the award, and the right is restricted to persons who had not applied for reference under section 18 of the Act. If these conditions were satisfied, the petitioners could have availed of the remedy provided under section 28A of the Act. In that event, section 25 would ensure to their benefit. Any other view would lead to disastrous consequences not intended by the Legislature.”*

Similarly, in AIR 2014 SC 1612, **“Brijesh Kumar & Others vs State Of Haryana & Others”** applications for condonation of delay of 10 years plus period which were dismissed by the High Court were also not allowed by the Apex Court, by observing as under:-

“11. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.

12. It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.”

In such circumstances the delay of 6 ½ years which has occurred and the explanation given does not inspire any confidence in this Court and keeping in view the settled principle that law helps those who are vigilant and not those who sleep over their rights, the applications for delay are dismissed and consequently the appeals are also dismissed being barred by the limitation.

27.04.2018
raman

(G.S. SANDHAWALIA)
JUDGE

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