

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

**RFA-5073-2017 (O&M)
Decided on: 17.04.2018**

Rahis Mohd. th. his LRs

.. Appellants

Versus

State of Haryana and others

.. Respondents

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

Present : Mr. Ashish Gupta, Advocate for the appellants.

G.S. Sandhawalia, J. (Oral)

Application has been filed for condonation of delay of 2613 days in filing the appeal, against the award dated 15.03.2010, passed by the Reference Court, Nuh, along with application for impleading the legal heirs of the landowner, namely Rahis Mohd., who expired on 29.04.2011, has been filed.

Rahis Mohd., during his lifetime, chose not to challenge the award. Only on account of the fact that the appeals filed by other landowners are pending before this Court, the present application has been filed for condonation of delay of more than 7 years along with the appeal. The Apex Court in **Mewa Ram (dead) by his LRs Vs. State of Haryana 1986 (3) SCR 660**, on similar grounds, held that mere pendency of appeal would not, as such, be a good ground to condone the delay wherein the delay was only of 3 years. Once the landowner himself has chosen not to agitate for his right, this Court is of the opinion that the inordinate delay in filing the present appeal is not liable to be condoned. Relevant portion of the judgment reads as under:

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“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 The petitioners have withdrawn large sums of money at each stage.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.”

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Accordingly, the applications for condonation of delay and for bringing on record the legal representatives, are dismissed. Consequently, the main appeal itself is hereby dismissed.

APRIL 17th, 2018

**(G.S. SANDHAWALIA)
JUDGE**

sailesh

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No