

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.4259 of 2018 (O&M)

Date of Decision: 11.12.2018

Surat Singh (now deceased) through LRs

... Appellant

VS.

State of Haryana & Anr.

... Respondents

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

Present: Ms. Anita Balyan, Advocate and
Mr. Vikrant Hooda, Advocate for the appellant(s)

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of RFA No.4259 of 2018 and RFA No.2385 of 2018. For the purpose of this order, RFA No.4259 of 2018 is being treated as the lead case.

The appeal is directed against the award dated 30.09.2004 whereby the market values were fixed for the acquired piece of land at different rates by the Reference Court, Jhajjar.

The application has been filed for condoning the 5027/4880 days in filing the appeals along with application for bringing on record the LR's of Surat Singh who died on 01.02.2009 and Rajbir Singh who died on 12.09.2000. A perusal of the application for condonation of delay would go to show that Surat Singh who is the original landowner had never filed the appeal and the same was thus filed after 9 years of his death. Similarly, in RFA No.2385 of 2018, the appeal is being filed after 18 years. The original landowner was thus satisfied with the amount of compensation which had been awarded. It is merely on account of the fact that other landowners have got their amount enhanced by this Court and by the Apex Court, these time barred appeals are being filed by the landowners.

Reliance has been placed on *Imrat Lal and others Vs. Land Acquisition Collector and others, 2015(2) RCR (Civil) 437* and *Dhiraj Singh (D) Tr. LRs. Vs. Haryana State and others, 2015 (2) RCR (Civil) 507* as such to put forth the case that the landowners should be granted the same amount of compensation. A perusal of *Imrat Lal* would show that in the application for condonation of delay, an explanation had come forth that the reasons that the applications for condonation of delay were vague which was accepted by the Apex Court on account that liberal approach should be taken.

Similarly, in *Dhiraj Singh* (supra), the delay of 12 years was condoned on account of the fact that LPAs were not filed because of the weak financial conditions before the Division Bench. This Court while deciding the appeal of similarly situated persons had allowed the LPAs but dismissed those of the one's which were time barred which order was thus set aside by the Apex Court.

In the present case, as noticeable is that the *lis* died along with the landowners and the LRs are now sought to be brought on record after 9 and 18 years to open up the issue of compensation afresh after the original landowner was satisfied with the amount of compensation which was awarded to him. In *Brijesh Kumar vs. State of Haryana & Ors. AIR 2014 SC 1612*, the period of delay 10 years 2 months and 29 days had not been condoned by the Apex Court because once there was no sufficient ground to condone the delay and it was held that the High Court is correct in dismissing the applications. It was held that the law of limitation is not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time. Merely because some persons have taken the relief, the other persons cannot take the benefit of approaching the Court at a belated stage at

their own convenience as and when it suits them. The relevant portion reads 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, this court is of the opinion that no case is made out as such to condone the delay in the absence of any valid reasons. The applications for condonation of delay are dismissed along with the LR applications. Resultantly, the main appeals are also dismissed.

11.12.2018

vvishal

(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No