

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-.-

R.F. A No. 5245 of 2017 (O&M)
Date of decision: 05.04.2018

P.C. Puri (died) thr. LR

... Appellant.

Vs.

Collector, LA, Industries Dept., PUnjab & Ors.

...Respondents

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

Present: Mr. K.L. Kohli, Advocate, for the appellant.

Ms. Akshita Chauhan, AAG, Punjab.

Mr. Sanjeev Sharma, Advocate, for respondent No.3.

G.S.SANDHAWALIA, J. (Oral)

Reply filed by State counsel today in Court is taken on record.

The present appeal is directed against the award passed by the Reference Court, Jalandhar on 02.04.2002 and is barred by limitation of 5623 days.

The respondents have opposed the application on the ground that delay is inordinate and the litigant should be diligent in seeking the remedy before law. It has further been averred that no cause much less sufficient has been shown in the application for condonation of delay. Merely because connected appeal bearing RFA No. 2731 of 1994, ***Land Acquisition Collector, Industries Department, Punjab, Chandigarh & Anr. Vs. Parkash Kaur***, was decided on 05.04.2007, would not as such revive the limitation. It is to be noticed that the amount awarded in the said

case has been maintained by the Apex Court in **Punjab Small Scale Industries and Export Corporation Vs. S.K.Nayar and Ors.**, decided on 17.12.2014 (Annexure P/4). The present appeal was filed on 08.12.2017. The original landowner i.e. the petitioner Sh. P.C.Puri, had expired on 31.01.2005 and was alive for more than three years after decision of the Reference Court on 02.04.2002. He had not initiated any litigation and pursue his legal remedies.

In such circumstances, this Court is of the opinion that the inordinate delay as such of more than 15 years is not liable to be condoned. Keeping in view the judgment of the Apex Court in **Pundlik Jalam Patil (D) by LRs Vs. Ex. Eng. Jalgaon Medium Project and Ors, 2009(1) RCR 128**, wherein it has been held that the law is for the vigilant and not for those who sleep over their rights. Similarly reliance can also be placed upon judgment in **Mewa Ram (Deceased) by his LRs and Ors Vs. State of Haryana** 1986 (3) SCR 660, wherein the Apex Court declined to grant the benefit of condonation of delay of more than 3 years. 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.”

The plea that the principle of equality would apply and that the same amount of compensation should be granted to the landowners, is an

attractive proposition but the fact remains that enhancement affects a large number of persons, especially where the land has been acquired for the development purposes of a residential, industrial and commercial area, which is the case in hand. To satisfy the demand of enhancement, the burden is passed to the allottees and the subsequent purchasers and leads to unsettling issues and creating financial burden after decades, on persons who are *bona fide* purchasers and who are under the impression that the property is free from all further demands and encumbrances.

In such circumstances, this Court is of the opinion that no ground is made out for condoning the delay of 5623 days. Accordingly, the application for condonation of delay and other miscellaneous applications alongwith main appeal are dismissed.

April 05, 2018
tripti/sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No