

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

**RFA No.545 of 2018 (O&M)
Date of Decision:16.02.2018**

Attar Singh and others

....Appellants

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Sandeep Sharma, Advocate
for the appellants.

G.S. SANDHAWALIA, J. (ORAL)

CM-1427-CI-2018

Application for placing on record Annexure P-1 and exemption from filing certified copy of Annexure P-1, is allowed, in view of the averments made in the application, duly supported by affidavit.

CM stands disposed of.

CM-1428-29-CI-2018 in/and RFA-545-2018

Application for treating the present appeal as urgent in view of RFA No.5316 of 2014 titled as “**Pushpender Kumar and others Vs. State of Haryana**” decided on 27.05.2016 (Annexure P-1), arising out of the same notification having been already decided, has been filed and it is contended that the delay of 1334 days in filing the appeal is liable to be condoned.

It is submitted that for village Naharpur Kasan the Reference Court enhanced the compensation from Rs.38 lakhs per acre for the notification dated 11.02.2010 to Rs.1,09,43,525/- per acre which was further enhanced in the above said RFA-5316 of 2014 to Rs.2,30,83,872/-

per acre. The Apex Court in Civil Appeal Nos.11913-11945 of 2017 titled as State of Haryana and another Vs. Pushpendra Kumar and others has modified the judgment by reducing the compensation on account of cut put for development charges.

Notice of motion.

Ms. Safia Gupta, AAG, Haryana accepts notice on behalf of State-respondent Nos.1 & 2. Copy supplied.

Keeping in view the judgments of the Apex Court in ***Imrat Lal & others Vs. Land Acquisition Collector & others 2015 (2) RCR (Civil) 437*** and ***Dhiraj Singh (deceased) through LRs Vs. Haryana State & others 2015 (2) RCR (Civil) 507***, that equities could be balanced by denying the interest on the enhanced compensation for the period of delay in filing the appeal, the present application is thus liable to be allowed. Therefore, keeping in view, the averments made in the application, duly supported by affidavit, same is allowed with the condition that for the period of delay of 1334 days in filing the appeal, the applicants-appellants shall not be entitled for any interest on the amount of enhanced compensation.

RFA No.545 of 2018

Perusal of order dated 27.05.2016 passed in RFA-5316-2014 titled as "Pushpender Kumar and others Vs. State of Haryana" goes to show that this Court had fixed the compensation at the rate of Rs.2,30,83,872/- for the above said village. Relevant portion reads as under:

“Granting the benefit of 12% annual increase on cumulative basis on the abovesaid market price disclosed in sale deeds Ex.PW2/6 and Ex.PW2/8, amount comes to Rs.2,30,83,872/- per acre. Since no cut was warranted to

be applied because of size of the area sold by way of abovesaid two sale deeds and for the reasons recorded hereinabove, land owners of village Naharpur Kasan are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,30,83,872/- per acre from the date of notification under Section 4 of the Act”.

The Apex Court in the appeal has granted 15% deduction by observing as under:

“10. In our opinion, the deduction of 15% towards development would have been sufficient, which ought to have been made in the instant cases, in the peculiar facts of the case, considering the potentiality of the area in question and the development which has taken place all around. This order not to be treated as a precedent in any other case. Thus, we modify the determination made by the High Court to the above extent only. Let deduction be made accordingly.

11. Coming to the question of severance charges, in case there is no land left out after the acquisition, obviously, severance charges would not be granted. It is in the cases where only part of the land has been acquired and there is a severance of the adjacent/remaining area, only in those cases compensation for severance is granted. It stands set aside in the cases where there is no severance.

12. The appeals of State are partly allowed and appeals of owners are dismissed. Pending application, if any, stands disposed of. Let the amount be paid within four months from today.”

Accordingly, the present appeal is disposed of in above terms by granting the benefit as has been fixed by this Court after due

modification by the Apex Court. It is also made clear that appellants shall not be entitled to interest on the enhanced compensation for the period of delay in filing the appeal i.e. 1334 days.

16.02.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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