

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CM-1961 to 1963-CI-2018 in/and
RFA-780-2018**

Date of decision: 27.07.2018

Ved Singh & others

....Appellants

Versus

State of Haryana & another

...Respondents

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

Present: Mr.Saurabh Dalal, Advocate, for the applicant/appellants.

Ms.Vibha Tewari, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

CM-1962-CI-2018

Application has been filed for impleading the LR's of deceased-appellant No.4-Sat Parkash, who is stated to have expired on 22.06.2001, leaving behind his legal representatives, as mentioned in para No.3 of the application and there is no other legal representative.

Accordingly, in view of the averments made in the application, duly supported by affidavit of Deepak Kumar-son, same is allowed. Legal representatives, as mentioned in para No.3 of the application, are brought on record, only for the purpose of pursuing the present litigation.

CM stands disposed of.

CM-1961-1963-CI-2018 in/and RFA-780-2011

The present appeal, directed against the award of the Reference Court, Jhajjar dated 07.02.2005, is barred by 4631 days. The grounds for condoning the delay are as under:

“2. That the appellants being poor villagers did not have sufficient funds and did not have the knowledge of the appellate process and thought the referral courts order to be final and the appellants came to know of the enhanced compensation in RFA-8 of 2005 on 02.04.2017 when the other land owners received

the enhanced amount, now that they have arranged the funds, the appeal is being filed without further delay. The appellants have prima-facie good case and balance of convenience also lies in favour of the appellants.

3. That the delay is not intentional and beyond the control of the appellants and deserves to be condoned.

A perusal of the same would, thus, go on to show that it is the case of the appellants, themselves, that they chose not to ask for the benefit of enhanced compensation and only woke up from their slumber when the above-said appeal was decided in the year 2017 and approached this Court on 11.01.2018, after almost 13 years.

Counsel for the appellants has vehemently submitted that the Apex Court in **Imrat Lal & others Vs. Land Acquisition Collector & others 2015 (2) RCR (Civil) 437** and **Dhiraj Singh (D) Th. LRs. Vs. Haryana State & others 2015 (2) RCR (Civil) 507**, has condoned the delay in case of the landowners.

There is no doubt regarding the said judgments. However, sufficient cause is to be made out in the application and it is their own case that only on account of the enhancement granted in RFA-8-2005 titled *Devinder Singh & others Vs. State of Haryana & others*, decided on 31.08.2015 (Annexure A-1), they have chosen to approach this Court. Once the application itself does not depict any sufficient cause, then the principles laid down by the Apex Court in the above-said judgments would not be applicable to the facts of the present case. It has, now, been further clarified by the State Counsel also that the said judgment rendered in **Devinder Singh** (supra) would not be applicable, since the notification

in the said case is dated 12.05.1995 whereas in the present case, the same is dated 26.05.1995.

The last argument which has been raised by counsel for the appellants that connected matters stand admitted and therefore, this Court should allow the application for condonation of delay, is also without any justification. The Apex Court in **Brijesh Kumar & others Vs. State of Haryana & others AIR 2014 SC 1612**, refused to condone the delay of 10 years and approximately 3 months and did not interfere with the orders passed by this Court. The landowners in those cases also had chosen not to file the appeals at the initial state and filed the same after the delayed period. Relevant observations read 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.”

Resultantly, the application for condonation of 4631 days in filing the present appeal is dismissed. Consequently, the main appeal is also dismissed.

27.07.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>