IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 801 of 2018 (O & M)
Date of decision: 13.03.2018

Ramzan @ Ramzan Mohammad (D) through L.Rs. and others
....Appellant(s)

Versus

State of Haryana and another ...Respondent(s)

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

Present: Mr. Shoaib Khan, Advocate,
for the appellants.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 2053-CI of 2018

Application has been filed for bringing on record legal representatives of deceased appellant no. 1-Ramzan @ Ramzan Mohammad, who is stated to have died on 18.10.2010. The details of legal representatives have been mentioned in para no. 1 of the application. It has been further averred that there are no other legal representatives of deceased appellant no. 1 except the ones mentioned in para nos. 1 of the application. The application is supported by affidavit of one of the legal representative.

Notice in the application.

Mr. Shivendra Swaroop, AAG, Haryana accepts notice.

The application is allowed and the persons mentioned in para no. 1 are allowed to be brought on record as legal representatives of deceased-appellant no. 1, only for the purpose of pursuing the present appeal. The present order shall not ensure any benefit to the parties in any other set of proceedings.

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C.M. Nos. 2051-52-CI of 2018

C.M. No. 2052-CI of 2018 has been filed for condonation of delay of 1208 days in filing the appeal alongwith C.M. No. 2051-CI of 2018 for entertaining the appeal as urgent on the ground that it is covered by decision in ***RFA No. 10326 of 2014, The Akash Cooperative Group Housing Society Ltd. vs. State of Haryana and another*** decided on 14.11.2017.

Notice in the applications.

Mr. Shivendra Swaroop, AAG, Haryana accepts notice.

Keeping in view the averments made in the applications and the fact that the awards arising out of the notification have already been set aside, this Court is of the opinion that the delay in filing the appeal is liable to be condoned subject to the condition that the appellants are not entitled for benefit of interest for 1208 days.

Accordingly, the applications are allowed.

Delay condoned.

RFA No. 801 of 2018

The appeal is directed against the award dated 12.08.2014 passed by the Additional District Judge, Panchkula under the Land Acquisition Act, 1894. It has been pointed out by counsel for the appellants that the notification in question under Section 4 of the Land Acquisition Act, 1894, dated 16.03.1999 was for the acquisition of 482.17 acres of land in Village Saketri, Tehsil & District Panchkula. Assessment of market value was done @ Rs.374/- per Sq.yd., vide the impugned award dated 12.08.2014 by the Reference Court. It is, accordingly, pointed out that in the bunch of appeals, the lead case of which is RFA No. 10326 of 2014

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(supra), other cases pertaining to the same notification have been remanded to the District Judge, Panchkula, for fresh decision, on the ground that a reverse cut had been applied to work-out the value of the land and it was an unsafe manner to determine the value of the land.

Accordingly, keeping in view the fact that similar appeals, against the same notification, have been remanded, no useful purpose, as such, would be served by calling for the records, as the market value is to be determined on the basis of the sale deeds prevalent on the date of the notification under Section 4. It is to be noticed that while remanding, it has also been directed to provide 2 effective opportunities to the respective parties to lead evidence in support of their claim. Relevant portion of the remand order dated 14.11.2017 reads as under:

> *"In the normal parlance, in the matter of this nature, remand is the last resort and least desired, particularly when the matter was remanded even earlier. But, as demonstrated above, it appears to be the only and the inevitable option, least any prejudice is caused or interest of any of parties suffers. And in the given facts and circumstances, it is deemed appropriate, and rather necessary, to afford two effective opportunities to each of the parties to lead the required evidence in support of their respective claims. Particularly, for learned counsel for the claimant/landowners as also the State of Haryana/HUDA/Union of India/Shri Mata Mansa Devi Shrine Board submit that they shall produce the requisite site plans to enable the Reference Court to ascertain the comparability of the relied upon sale instances, and other evidence on record, with the acquired land. However, in the event of default by any of the parties, no further opportunity shall be granted at any cost. Needless to assert that nothing stated herein above shall constitute an expression of opinion on the merits of the case of either party. For, it shall be decided by the Reference Court strictly in accordance with*

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law. The parties through their respective counsel shall appear before the District Judge, Panchkula, on 15.01.2018. It shall be the discretion of the District Judge to either decide the matter himself or assign to any other Court of competent jurisdiction. But it shall be ensured that all the land references are assigned to the one Court. However, owing to the history of the case, the Reference Court is requested to decide the matter within six months from the date the parties shall cause appearance before the District Judge.

Accordingly, these appeals are disposed of in the above terms. The Registry is directed to return the LCR to the reference Court forthwith."

Accordingly, the appeal is allowed, order dated 12.08.2014 is set aside and the matter is remanded to the District Judge, Panchkula, who shall ensure that it is entrusted to the same Court who is dealing with the references pertaining to notification dated 16.03.1999. In case the reference is allowed, the Reference Court shall ensure that it is mentioned in the decree that the appellant shall not be entitled for the interest for the period of 1208 days.

13.03.2018 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No

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