

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

RFA No. 824 of 2018 (O & M)

Date of decision: 19.03.2018

Ved Parkash and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Sunil K. Sharma, Advocate,
for the applicant-appellant.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 2120-CI of 2018

Application has been filed for making the deficiency of Court fees as good.

It has been averred in the application that the deficiency as such has been made good.

Accordingly, the application is allowed.

C.M. No. 2121-CI and 2119-CI of 2018 in/and RFA No. 824 of 2018

Application has been filed for condonation of delay of 930 days in filing the appeal which has been preferred against the award dated 12.01.2015 wherein compensation had been granted @ Rs.3,33,78,186/- per acre. An application has been filed that the case is covered vide judgment of this Court in ***RFA No. 5316 of 2014, Pushpender Kumar and others vs. State of Haryana and another*** decided on 27.05.2016 (Annexure A-1) wherein, the market value of the village Sihi was determined at a uniform rate of Rs.7,02,70,659/- per acre.

Notice in the application.

Mr. Shivendra Swaroop, AAG, Haryana accepts notice.

It is pointed out that the matter is now finalized by the Apex Court also in ***Civil Appeal Nos. 19113-11945 of 2017, State of Haryana and another vs. Pushpender Kumar and others*** decided on 05.09.2017 wherein, 15% reduction has been done on account of the development charges and reduction in compensation has accordingly been done.

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 930 days in filing the appeal, the applicants-appellants shall not be entitled for any interest on the amount of enhanced compensation.

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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.7,02,70,659/- for the above said village for the notification dated 11.02.2010. Relevant portion reads as under:

“Granting the benefit of 12% annual increase on cumulative basis on the abovesaid market price disclosed in this sale deed Ex.PW4/5, amount comes to Rs.7,02,70,659/- per acre, therefore, the land owners of village Sihi are held entitled to receive the

compensation for their acquired land at the uniform rate of Rs.7,02,70,659/- 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 the above terms by granting the benefit as granted by this Court after due modification by the Apex Court. The reduction to 15% would come to Rs.1,05,40,599/- per acre and, therefore, the market value is pegged down to Rs.5,97,30,060/- per acre. It is also made clear that the appellant shall not be entitled to

interest on the enhanced compensation for the period of 930 days in filing the appeal.

19.03.2018

shivani

(G.S. SANDHAWALIA)

JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No