

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

R.A. No. 349-CI of 2016 (O & M) in
RFA No. 317 of 1994
Date of decision: 27.03.2018

Mrs. Darshna Kumari (D) through L.Rs.Petitioner(s)

Versus

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

AND

R.A. No. 350-CI of 2016 (O & M) in
RFA No. 186 of 1995

Charan SinghPetitioner(s)

Versus

State of Haryana ...Respondent(s)

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

Present: Mr. Shailendra Jain, Sr. Advocate,
with Mr. Satyendra Chauhan, Advocate,
for the review applicant-appellants.

Ms. Safia Gupta, AAG, Haryana.
G.S.SANDHAWALIA, J. (Oral)

The present order shall dispose of two review applications i.e.
R.A. Nos. 349-CI and 350-CI of 2016 alongwith two applications for
condonation of delay of 1142 days in filing the review applications i.e. C.M.
Nos. 8317-CI and 8320-CI of 2016 as common questions of facts and law
are involved in both the cases. Reference is being made to ***R.A. No. 349-CI
of 2016 in RFA No. 317 of 1994, Mrs. Darshna Kumar (D) through L.Rs.
vs. State of Haryana.***

Applications for condonation of delay of 1142 days in filing the

review applications of order dated 06.03.2013 have been filed, whereby the main RFAs were dismissed on account of the fact that they already stood covered in an earlier judgment in ***RFA No. 223 of 1994, State of Haryana vs. Smt. Reshan*** decided on 30.08.2010. In the said case, reference had been made to an earlier judgment rendered in RFA No. 848 of 1993 whereby, the claim of the land owners as well as the State appeals were dismissed. The review petition, thus, came to be filed challenging the dismissal which has upheld the order of the Reference Court dated 12.08.1993 for land falling in village Raily which was acquired vide notification dated 19.09.1983 issued under Section 4 of the Land Acquisition Act, 1894 (in short 'the Act').

Senior counsel for the applicant's pivotal argument is that reliance has been placed upon a notification dated 23.05.1983 of the same village whereby Rs.75/- per sq. yd. had been assessed and, therefore, the matter should be reviewed as the date of notification in the present case was different and was four months after the said notification. Reference is also made to the judgment of the Apex Court in ***Civil Appeal Nos. 2714-2721 of 2012, Ashok Kumar and another vs. State of Haryana, 2016 (4) SCC 544*** (Annexure A-6) decided on 18.02.2016 whereby, qua the notification in question, the value had been fixed at Rs.200/- per square yard. It is accordingly submitted that since the RFA had been dismissed in the absence of the counsel, therefore, the order should be recalled.

It is settled principle firstly that a review is maintainable and the order under review has to suffer from a patent illegality on the face of the record. A perusal of the award under appeal would go on to show that even the Reference Court as such had placed reliance upon the notification

under Section 4 of the Act dated 23.05.1983 which was for the same village and an award had been passed dated 22.09.1986 (Ex.P-6) whereby, the District Judge had awarded Rs.75/- per sq. yd. It is in such circumstances, the market value had been assessed at Rs.75/- per sq. yd. This Court in ***RFA No. 848 of 1993, State of Haryana vs. Rai Singh*** on 10.02.2000 had noticed that the reliance had been placed upon the judgment relating to village Ferozepur Kalan whereby, the award was passed on 26.10.1982 and the Reference Court had awarded compensation of Rs.70/- per sq. yd. and, therefore, upheld the amount of compensation at Rs.75/- on the principle that reasonable guess work has to be applied to give fair compensation to the land owners. In the absence of any evidence on record, there was no cause for enhancement of the amount also and resultantly, the appeals were dismissed.

The position remains same in the present case also. Nothing could be pointed out that there was any evidence which had been brought on record to show that the market value as such at that point of acquisition was more than Rs.75/- per sq. yd. and no exemplar had been placed on record. Thus, there was nothing on record which this Court could have taken into consideration on 06.03.2013 to enhance the compensation and resultantly it followed the earlier view in spite of the fact that none was present for the land owners. Even today, as such, even if the matter is reviewed, there is nothing on record to show that there was some relevant exemplar which has not been considered by the Reference Court by which the appeal is liable to be allowed. Merely because on 18.02.2016, three years later, the Apex Court decided a bunch of matters pertaining to the same village and had fixed the compensation at Rs.200/- per sq. yd., it would not give cause as

such to the petitioners to file an application for condonation of delay and try to seek compensation at par.

As noticed, even in the application for condonation of delay, it has been averred that in view of the decision in *Ashok Kumar's case (supra)*, the applicants had visited the office of the counsel at Chandigarh for application of the said decision and thereafter they came to know that the case had been dismissed and they were never informed as such. Even the certified copy of the order as such would go on to show that it is only after the decision in *Ashok Kumar's case (supra)* that the judgment was applied for on 08.04.2016, which is more than 3 years after the decision. In such case, accordingly keeping in view the above, this Court is of the opinion that no sufficient cause as such has been shown to condone the inordinate delay of 1142 days and it is only an attempt by the land owners to get compensation at a higher rate after having accepted the decision of this Court in 2013 alongwith other co-appellants who had also not put in appearance. A review is not disguise for rehearing of the matter until there is a patent error on the record and reliance can be placed upon ***Sasi (D) through L.Rs. vs. Aravindakshan Nair and others, 2017 (4) SCC 692.*** As noticed, the argument raised that the notification is different in *Rai Singh's case (supra)* also is not acceptable keeping in view that the Reference Court had also relied on the said notification.

Even otherwise, the original counsel who filed the RFA has not filed the review application and neither he has filed any affidavit in support that he missed the case on account of what circumstances due to which his appearance was not there. Reliance can be placed upon judgment of the

Apex Court in ***T.N. Electricity Board and another vs. N. Raju Reddiar and***

