

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

**CM-11743-44-CI-2018 in/and
RA-RF-RF-193-CI-2018 in/and
RFA No.3051 of 2015
Decided on : 20.12.2018**

Sultan ... Appellant
Versus
State of Haryana & others ... Respondents

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

Present: Mr. Ajay Jain, Advocate, for the applicant/review-appellant.
Ms.Vibha Tewari, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral):

CM-11743-44-CI-2018 in/and RA-RF-193-CI-2018 and RFA-3051-2015

The present review petition has been filed for review/modification of the order dated 07.08.2015, on the ground that this Court had only granted 12% flat enhancement, while disposing of the present appeal in terms of RFA-5626-2010 titled *State of Haryana & others Vs. Murti Devi & others*, decided on 26.03.2014. It is submitted that it could not be brought to the notice of this Court at the time of final decision on 07.08.2015 that the order passed in Murti Devi's case (supra) had been modified by the landowners in SLP (C) Nos. 20531-20565-2014 titled *Narbadi Devi & others Vs. State of Haryana & others*, decided on 22.08.2014 (Annexure A). It is, accordingly, submitted that on the basis of principle of Eminent Domain and that all landowners should be entitled for an equal amount of compensation, there would be an error, as such, in the order dated 07.08.2015, review of which is sought.

State Counsel has opposed the application for review on the ground that the landowners have a remedy of approaching the Apex Court, in the facts and circumstances.

The application for review is also accompanied by an application for condonation of delay of 1178 days, on the ground that the decision of the Apex Court in Narbadi Devi (supra) came to the knowledge of the applicant only subsequently and therefore, the delay, as such, has occurred.

Keeping in view the above facts and circumstances, this Court is of the opinion that the order dated 07.08.2015 is liable to be reviewed, since parity should be maintained regarding the fixation of compensation for the land which is acquired vide the same notification. Merely because the landowners have chosen not to approach the Apex Court would not, as such, be a ground to deny them the re-fixation of the compensation as the Apex Court has granted the benefit of cumulative increase.

Keeping in view the above discussion, it is apparent that the market value was fixed @ Rs.724.75 per sq.yard, by granting 12% flat enhancement for the notification dated 13.11.2002. A perusal of the order in Murti Devi's case (supra) (Annexure A-1) would go on to show that the base was taken as Rs.325/- per sq.yard and then a 12% enhancement was granted for 10 1/4th years, for fixing the market rate @ Rs.724.75 per sq.yard. Resultantly, the order dated 26.03.2014 was modified by the Apex Court, by giving cumulative enhancement, while observing as under:

“From the impugned Judgment of the High Court, it transpires that the High Court has followed the Judgment of this Court in Asharfi and others Versus State of Haryana and others 2013 (5) SCC 527 and has given increase @ 12%. This was the demand of the petitioners herein which has been accepted following the ratio in Asharfi case (supra). To the extent there is no quarrel. However, it is pointed out by the Ld. counsel for the petitioner that in Asharfi case (supra), yearly increase of 12% was granted cumulatively and not at flat rate. This position as contained in Asharfi case (supra) could not be disputed by Mr.Narender Hoda, Ld. senior counsel for the State. Accordingly, the Order of the High Court is modified to the extent that the 12% increase granted by the High Court shall be worked out on cumulative basis.

The Special Leave Petitions stand disposed of accordingly.”

Accordingly, to maintain parity, the order dated 07.08.2015 is modified to that extent and the landowners are also held entitled for the same benefit of cumulative enhancement. Resultantly, the present application for condonation of delay in filing the review/modification application, review/modification application and the application for disposal of the main appeal, are allowed in the same terms.

December 20th, 2018
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No