

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RA-RF No. 108-CI of 2018 (O&M)
in R.F.A No. 3802 of 2014

Date of decision : 13.7.2018

Birkha (deceased) through LRs Applicants
vs
State of Haryana and another Respondents

Coarm: Hon'ble Mr. Justice Rajesh Bindal

Present: Dr. Surat Singh, Mr. Kartik Singh and
Mr. Vijay Saini, Advocate, for the applicants.

Mr. Ankur Mittal, Additional Advocate General Haryana.

Rajesh Bindal J.

The prayer in the present review application is for modification of order dated 22.12.2015 passed by this Court while disposing of bunch of appeals vide common order passed in RFA No. 1515 of 2014 - *Harijan Co-operative Society Limited vs State of Haryana and another* and awarding compensation to them in terms of order passed by Hon'ble the Supreme Court in Civil Appeal No. 2846 of 2017 - *Bijender and others vs State of Haryana and another*, on 27.10.2017, arising out of same acquisition. Along with the Review Application, the applicants have also filed application seeking condonation of delay of 827 days in filing thereof.

Impleading LRs

This is an application for impleading the legal representatives of deceased appellant Birkha, who died on 4.12.2017. It is stated in the application that the deceased left behind eight legal heirs.

For the reasons mentioned in the application, the applicants are impleaded as legal representatives of the aforesaid deceased appellant. However, it is made clear that this order shall be considered only for the

purpose of representation of the aforesaid deceased before this Court.

Amended memo of parties annexed with the application is taken on record.

Civil misc. stands disposed of.

Delay

After hearing learned counsel for the parties and considering the judgments of Hon'ble the Supreme Court in Imrat Lal and others vs Land Acquisition Collector and others, 2015(2) RCR (Civil) 437 and Dhiraj Singh (D) Tr. LRs. vs Haryana State and others, 2015 (2) RCR (Civil) 507, delay of 827 days in filing the Review Application is condoned.

However, for the period of delay in filing the Review Application, the applicants shall not be entitled to interest on the enhanced compensation, if any.

CM stands disposed of.

Review Application

Briefly, the facts of the case are that vide notification dated 23.8.2007, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana, sought to acquire land in villages Singhpura, Safidon, Rampura, Rattan Khera and Khera Khemawati, District Jind for development and utilisation thereof as commercial and residential Sectors 7, 8 and 9, Safidon. The same was followed by notification dated 21.8.2008, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award Nos. 3, 4 and 5 dated 19.8.2010, assessed the market value of the acquired land @ ₹ 33,00,000/- per acre upto the depth of two acres on Safidon-Jind road, Safidon Bypass road and Gair Mumkin kind of land and @ ₹ 18,00,000/- per acre for Nehri

and Chahi land. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned reference court. The learned court below dismissed the reference petitions vide award dated 17.12.2013, which was impugned by the landowners before this court. This Court disposed of bunch of appeals vide common order passed in *Harijan Co-operative Society Limited's* case (supra) and upheld the award of the Collector assessing compensation @ ₹ 33,00,000/- per acre for the land upto the depth of two acres on Safidon-Jind Road, Safidon Bye-pass road and Gair Mumkin kind of land and assessed the market value of the acquired land @ ₹ 24,75,000/- per acre for the land beyond that.

Some of the landowners approached Hon'ble the Supreme Court. In *Bijender's* case (supra), Hon'ble the Supreme Court enhanced the compensation for the land acquired vide same notification.

Thereafter, the applicants/landowners filed Special Leave Petition (Civil) No. 38817 of 2017 -*Jaspal Singh etc. vs State of Haryana and another*, challenging the order dated 22.12.2015 passed in *Harijan Co-operative Society Limited's* case (supra), which was got dismissed as withdrawn on 23.2.2018, to enable the applicants to approach this Court to claim same relief, as prior to that vide earlier judgment in *Bijender's* case (supra), compensation had been increased by Hon'ble the Supreme Court.

Learned counsel for the landowners submitted that the applicants got the Special Leave Petition dismissed as withdrawn to enable them to approach this Court for the same relief as granted to the landowners by Hon'ble the Supreme Court in *Bijender's* case (supra). He further submitted that delay occurred in filing the Review Application cannot be said to be intentional, as they were before Hon'ble the Supreme Court. The

submission is that the applicants/ landowners be granted same amount of compensation as has been granted to the landowners by Hon'ble the Supreme Court in Bijender's case (supra).

On the other hand learned counsel for the State could not dispute the contention raised by learned counsel for the applicants with regard to enhancement of compensation for the acquired land by Hon'ble the Supreme Court. However, he submitted that no liberty was granted by Hon'ble the Supreme Court while permitting the applicants to withdraw Special Leave Petition.

After hearing learned counsel for the parties and considering the aforesaid facts, in my opinion, the order passed by this Court on 22.12.2015 in the case of the applicants deserves to be modified to the extent that the applicants shall be entitled to compensation in terms of judgment of Hon'ble the Supreme Court in Bijender's case (supra). Special Leave Petition challenging the order passed in favour of the applicants/ landowners was got dismissed as withdrawn on 23.2.2018. Withdrawal of SLP will not debar the applicants from claiming same amount of compensation as has been granted by Hon'ble the Supreme Court to other landowners from same acquisition. However, the applicants shall not be entitled to interest for the period of delay in filing the Review application.

Ordered accordingly.

The review application stands disposed of.

13.7.2018
vs

(Rajesh Bindal)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No