

221

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

**RFA-883-2019 (O&M)
Date of Decision:- 20.05.2019**

Omkar (deceased) through Lrs and others

... Appellants

Versus

State of Haryana and another

... Respondents

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

Present : Mr. S.P.Chahar, Advocate
for the appellants.

Ms. Vibha Tewari, AAG, Haryana.

Mr. Vikas P.Singh, Advocate
for respondent No. 3.

G.S. Sandhawalia , J. (Oral)

CM-5076-CI-2019

CM Nos. 2124 & 25 of 2019 have been filed for bringing on record the legal representatives Omkar-appellant No. 1 and Dharam Singh-appellant No. 2. It is stated that both the appellants had expired on 03.12.2015 & 01.05.2018 respectively.

CM No. 5076-CI-2019 has been filed for placing on record the affidavits dated 13.05.2019 in support of the above referred applications and also for placing on record the copy of the Wills dated 13.04.2007 and Mutation No. 2796 (Annexure A-1) and another one is dated 13.04.2009 and Mutation No. 2989 (Annexure A-2).

Keeping in view the averments made in the application duly supported by an affidavit of Vijay Pal son of the deceased, the same is

allowed.

CM No. 2124-2019

This is an application filed under Order 22 Rule 3 CPC read with Chapter 1, Part C, Vol. 5 of the High Court Rules and Orders read with Section 151 CPC for bringing on record the legal representatives of Omkar-appellant No. 1, who is stated to have expired on 03.12.2015. The details of the legal representatives of the deceased appellant have been mentioned in para 2 of the application and it has been averred that there are no other legal representatives apart from those mentioned in the application. The application is duly supported by affidavit of son of Omkar.

Accordingly, in view of the averments mentioned in the application, duly supported by affidavit, the same is allowed and the legal representatives of the deceased appellant as mentioned in para 2 of the application, are permitted to pursue the present litigation only. It is made clear that the present order will not be liable to be taken into consideration in any other set of proceedings.

CM stands disposed of.

CM No. 2125-2019

This is an application filed under Order 22 Rule 3 CPC read with Chapter 1, Part C, Vol. 5 of the High Court Rules and Orders read with Section 151 CPC for bringing on record the legal representatives of Dharam Singh-appellant No.2, who is stated to have expired on 01.05.2018. The details of the legal representatives of the deceased appellant have been mentioned in para 2 of the application and it has been averred that there are no other legal representatives apart from those mentioned in the application. The application is duly supported by affidavit of son of Dharam Singh.

Accordingly, in view of the averments mentioned in the application, duly supported by affidavit, the same is allowed and the legal representatives of the deceased appellant as mentioned in para 2 of the application, are permitted to pursue the present litigation only. It is made clear that the present order will not be liable to be taken into consideration in any other set of proceedings.

CM stands disposed of.

Delay application

The present appeal, directed against the order dated 01.10.2011, passed by the Reference Court, Jhajjar, is barred by 2575 days. In view of the fact that the matters have attained finality before the Apex Court and the interest of the respondents can be protected, the delay of 2575 days in filing the appeal is, hereby condoned conditionally, 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 (D) Th. LRs. Vs. Haryana State & others 2015 (2) RCR (Civil) 507***. However, the appellants shall not be entitled for the interest element, for the said period of delay.

CM stand disposed of.

Main Case

It is not disputed that a sum of Rs.16 lakhs was awarded by the Land Acquisition Collector, as compensation for the notification dated 16.01.2007 and there was no enhancement granted by the Reference Court. This Court had enhanced the compensation to Rs.29,00,400/- per acre along with statutory benefits, which has been reduced by the Apex Court and an amount of Rs.25 lakhs had been awarded vide order dated 05.09.2017 in

CA-8757-2016 titled *Arawali Power Company Pvt. Ltd. Vs. Joginder Singh Tokash & others*. Relevant portion of the judgment reads as under:

“In the peculiar facts and circumstances of the case, we find that it would be appropriate to make approximately 15% deduction towards development and in the facts and circumstances of the case, we grant compensation at the rate of Rs.25,00,000/- (Rupees twenty five lakhs only) per acre alongwith statutory benefits.

Consequently the appeals filed by the Company are partly allowed and the cross appeals/cross objections preferred by the owners are hereby dismissed. No costs.”

Accordingly, the present appeals are also allowed, in the above-said terms, except for interest for the period of 2575 days.

20th May, 2019

shabha

**(G.S.SANDHAWALIA)
JUDGE**

Whether speaking/reasoned : Yes

Whether Reportable : No