

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

**RFA-557-2019 (O&M)
and RFA-558 to 563-2019 (O&M)
Date of decision: 20.05.2019**

Rajpal Singh & anotherAppellants
Versus
State of Haryana & another ...Respondents

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

Present: Mr.R.D.Yadav, Advocate, for the appellants.

Ms.Vibha Tewari, AAG, Haryana

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

G.S. SANDHAWALIA, J. (Oral)

Exemption applications

Applications for exemption from filing the certified/typed copies of order dated 03.01.2019 and for placing on record the same as Annexure A-1, are allowed, subject to all just exceptions.

CMs stand disposed of.

Applications for condonation of delay in filing

Applications for condonation of delay of 2598 days in filing the appeals against the award of the Reference Court, Jhajjar dated 01.10.2011, have been filed.

The reasons given in the applications to make out a sufficient cause, as such, is that the applications were under the impression that they could not file the appeal and the co-villagers had filed appeal which was decided on 04.02.2016 and the compensation had been enhanced to Rs.29,00,000/- per acre along with statutory benefits. Thereafter, the present applicants had filed an application under Section 28-A of the Land Acquisition Act, 1894 (for short, the 'Act') which was dismissed on

03.01.2019 and due to this reason, the delay, as such, had occurred.

Applications have been opposed by respondent No.2, beneficiary of the acquisition, on the ground that the appellants had taken the benefit of Section 18 of the Act and the applications under Section 28-A were also time-barred. The period of filing of the appeal was 90 days from the date of the award and the said application was filed on 19.05.2016, which was dismissed on 03.01.2019 and therefore, correct remedy had not been pursued. Reliance was also placed upon the judgment of the Apex Court in **Deenu (dead) th. LRs Vs. Bharat Singh (dead) th. LRs & others 2002 SCR 289** and **Officer on Special Duty (Land Acquisition) & another Vs. Shah Mani Lal Chandulal & others (1996) 9 SCC 414**.

A perusal of the paperbook would go on to show that the appeals were filed on 01.02.2019, which is immediately after the decision of the application filed under Section 28-A, decided on 03.01.2019 (Annexure A-1). The said application had been dismissed on the ground that since petition under Section 18 had been filed, therefore, the application was not maintainable and the appellants should have pursued their remedy of filing the appeal.

Admittedly the matter is also covered by the judgment of the Apex Court in CA-8757-2017 titled **Arawali Power Company Pvt. Ltd. Vs. Joginder Singh Tokash & others**, decided on 05.09.2017, wherein the market value had been fixed @ Rs.25,00,000/- per acre. In such circumstances, this Court is of the opinion that sufficient cause, as such,

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is made out to condone the delay, since the market value stands fixed and the landowners are entitled for the same amount of compensation as awarded to the similarly situated landowners, in view of the law laid down by the Apex Court in **Narender & others Vs. State of U.P. & others 2011 (9) SCC 426**.

The interest of the respondents can be looked after by denying the benefit of interest on the enhanced compensation for the period of delay, as such, in approaching this Court, at the first instance, once the reference had been declined and the amount of Rs.16,00,000/- per acre, as awarded by the Land Acquisition Collector, had been upheld. Reliance can be placed upon the judgments of the Apex Court in **Imrat Lal and others vs. Land Acquisition Collector and others, 2014 (14) SCC 133, Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2014 (14) SCC 127 and Samiyathal & others vs. Spl. Tahsildar & others 2015 (2) RCR (Civil) 441**. Accordingly, the applications for condonation of delay of 2598 days in filing the present appeals, are allowed, with the condition that the benefit for interest on enhanced compensation shall not be granted for the said period of delay.

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The Reference Court, Jhajjar has not enhanced the compensation but this Court had, thereafter, vide order dated 04.02.2016, enhanced the compensation to Rs.29,00,400/- per acre. The same has been modified to the extent of Rs.25,00,000, in **Joginder Singh Tokash** (supra), which 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, since the matter is squarely covered, the present appeals are also disposed of by granting a sum of Rs.25,00,000/- per acre along with all statutory benefits. However, the landowners shall not be entitled for the benefit of interest on the enhanced compensation, for the period of delay of 2598 days in filing the appeals.

20.05.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*