

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1953 of 2019 (O&M)

Date of Decision: 14.05.2019

Savitri & Anr.

... Appellants

VS.

State of Haryana & Anr.

... Respondents

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

Present: Mr. Arun Gupta, Advocate for
Mr. ND Achint, Advocate for the appellants

G.S. SANDHAWALIA, J. (Oral)

The present appeal has been filed after a delay of 2067 days against the award dated 07.09.2013 of the Reference Court, Gurgaon. The Reference Court noticed that in support of the case, no oral as well as documentary evidence had been led by the appellants in spite of 10 effective opportunities given and accordingly evidence was closed vide order dated 16.11.2012. Thereafter an application for additional evidence had been filed which was also pertaining to the award passed for a different village, namely, Chakarpura whereas the land in question is village Dundahera. In such circumstances, the application for additional evidence has also been dismissed on 04.09.2013 prior to the dismissal of the reference petition.

A perusal of the application for condonation of delay would show that sufficient cause as such was sought to be made out when the appellants came to know that other co-sharers have filed the appeal which has been allowed by this Court. The Reference Court has also noticed that on an earlier occasion vide award dated 15.01.2010 there had been no enhancement for the land which was acquired for the notification dated 13.05.2002. This Court had decided the said bunch of cases in **RFA**

SDO(C), Gurgaon & Ors. on 16.01.2019. The appeals of the landowners had been allowed and the market value had been assessed @ ₹ 75 lakhs per acre along with all statutory benefits.

It is apparent that bolstered by the said decision, the present appeal had been filed. Sufficient cause as such as to be justified and where the litigant has been negligent as such and has chosen not to agitate for his grievances, this Court would not be indulgent to such a litigant merely because the argument raised is that the benefit of interest can be denied for the period of delay is not a good reason to condone the inordinate delay. The effect of enhancement at a belated stage has a rippling effect especially where the land has been further developed and allotted to a large number of persons. The allottees and their subsequent purchasers are faced with demands of the extra compensation which the State has to dole out along with interest which affects such purchasers who are secure in their thought that they have purchased the property which is free from any encumbrances.

In such circumstances, this Court is of the opinion that no case for condoning the delay is made out in the present case. Even otherwise as noticed the landowners were totally remiss in even prosecuting the case at an initial stage and had not even led evidence. The impugned order does not suffer from any infirmity since as many as 10 opportunities were given to the landowners before the evidence was closed and then the reference was eventually dismissed.

Needless to say that this Court has not observed on the rights of the appellants to seek the benefit of enhancement in execution proceedings on the strength of being co-owners of the land which has been acquired.

Faced with this situation, counsel submit that being co-sharers, they would have a right to file execution proceedings on the strength of the fact higher amount has been awarded to the other co-sharers granted by the Apex Court and therefore, liberty as such be granted to approach the Executing Court for the said benefit.

Reliance is placed upon the judgments in '**A. Vishwanath Pillai v. Special Tehsildar of Land Acquisition, 1991 (4) SCC 17**', '**Smt. Parwati v. State of Haryana, 2009 (5) RCR (Civil) 572**' and '**Parkasho v. State of Punjab, 2010 (2) Law Herald 1676**', to this effect.

Keeping in view the above, the present appeal and delay application are disposed of. Liberty is granted to the land owners to agitate their grievances in accordance with the above settled proposition of law.

14.05.2019

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(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?

Yes/No

2. Whether reportable?

Yes/No