

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1992 of 2019 (O&M)

Date of Decision: 15.05.2019

Rai Singh & Ors.

... Appellants

VS.

Land Acquisition Collector, SDO (Civil)
Gurgaon & Ors.

... Respondents

RFA No.1993 of 2019 (O&M)

Date of Decision: 15.05.2019

Braham Prakash & Anr.

... Appellants

VS.

Land Acquisition Collector, SDO (Civil)
Gurgaon & Ors.

... Respondents

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

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

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of the above-captioned RFAs as the point in question is common. For facts, RFA No.1992 of 2019 is being treated as the lead case.

The present appeal filed under Section 54 of the Land Acquisition Act, 1894 is against the award dated 15.01.2010 of the Reference Court, Gurgaon. The notification in question under Section 4 was dated 13.05.2002 whereby the land was acquired of village Dundahera. On account of the lack of evidence in the form of any sale deed of agricultural land the reference petition was dismissed.

Both the appeals are accompanied by applications for condonation of delay of 3307 days in filing the appeals. It has been averred

“That there was a lapse of the trial court counsel, who could not promptly advise for filing the present appeal and this fact has been come to the notice when other co-sharers have filed appeal in this Hon’ble Court, which has since been allowed.”

Counsel has prayed for the benefit of condonation of delay in view of **Kethu Penchal Reddy & Ors. vs. Special Deputy Collector (LA), (2018) 15 SCALE 241** to submit that the benefit of interest can be denied for the period of delay.

It has been time and again held by the Apex Court that the issue of delay is to be examined in the facts and circumstances of the case.

The delay is as such colossal of almost of a decade and it is settled principle that the law of limitation is not to be thrown out the window and parties can be free to wake up at any point of time and approach the Court. The Apex Court in '**Pundlik Jalam Patil (D) by LR.s. vs. Exe. Eng. Jalgaon Medium Project and another**', 2009 (1) PLR 128 held as under:-

“14.....The applicant having set the machinery in motion cannot abandon it to resume it after number of years because the authority with whom it had entered into correspondence did not heed to its request to file appeals. The question is: Can the respondent/applicant in this case take advantage of its negligence, after lapse of number of years, of the decision of Government? It knew the exact grounds on which appeals could have been preferred. The law will presume that it knew of its right to file appeal against the award. Everybody is presumed to know law. It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the

ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.'

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18. Shri Mohta, learned senior counsel relying on the decision of this court in **N. Balakrishnan vs. M. Krishnamurthy [(1998) 7 SCC 123]** submitted that length of delay is no matter, acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as part of dilatory tactics the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a life span for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It is observed: It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

The Apex Court in **Mewa Ram (dead) by his LRs Vs. State of Haryana 1986 (3) SCR 660**, declined to grant the benefit of condonation of delay of more than 3 years. Relevant portion of the judgment reads as under:

“The petitioners had all applied for reference under section 18 of the Act and the civil court by adopting a different basis for computation, namely treating the land to be potential building site, substantially enhanced the amount of compensation. On

appeal there was further enhancement by the High Court. The petitioners have withdrawn large sums of money at each stage. For instance, the petitioner Mewa Ram withdrew on February 6, 1976 consequent upon the award of the Land Acquisition Collector Rs.1,19,000, an additional sum of Rs.28,938.20p. On March 23, 1978 after the judgment of the learned Additional District Judge, and Rs.2,75, 105.42p. after the judgment of the High Court between December 11, 1981 and February 13, 1982. The judgment of the High Court not having been appealed from has admittedly become final. Evidently, the petitioners felt satisfied with the enhanced amount of compensation as awarded by the High Court @ Rs.12.25 per square yard because they did not apply for grant of special leave under [Art. 136](#) of the Constitution for more than three years. Merely because this Court in the two cases of Paltu Singh and Nand Kishore enhanced the rate of compensation to Rs.17.50 per square yard, could not furnish a ground for condonation of delay under section [5](#) of the Limitation Act.

5. Furthermore, there is no provision in the Act apart from section [28A](#) for reopening of an award which has become final and conclusive. No doubt section [28A](#) now provides for the redetermination of the amount of compensation provided the conditions laid down therein are fulfilled. For such redetermination, the forum is the Collector and the application has to be made before him within thirty days from the date of the award, and the right is restricted to persons who had not applied for reference under section [18](#) of the Act. If these conditions were satisfied, the petitioners could have availed of the remedy provided under section [28A](#) of the Act. In that event, section [25](#) would ensure to their benefit. Any other view would lead to disastrous consequences not intended by the Legislature.”

In the present case, the explanation is only that the appeals are

being filed on account of the decision by this Court in a bunch of cases in

RFA No.2818 of 2010 Ranvir Singh vs. Land Acquisition Collector-cum-SDO(C), Gurgaon & Ors. on decided on 16.01.2019. It is thus apparent that the landowners were negligent as such and not interested in filing their appeal. Sufficiency of the grounds are to be taken into consideration for condoning the delay regarding the same set of acquisitions. This Court in **RFA No.1953 of 2019 Savitri & Anr. vs. State of Haryana & Anr.** decided on 14.05.2019 has noticed the effect upon the allottees and subsequent purchasers of enhancement at a belated stage, regarding the same acquisition. The relevant part reads as under:-

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.

Counsel is not in a position to distinguish between the decision which was passed yesterday which was pertaining to the same set of notification and therefore this Court is of the opinion that a different view cannot be taken once the landowners themselves have chosen to sleep over their rights for almost a decade. Needless to say that this Court is not commenting upon the rights of the landowners to recover the benefit of enhanced compensation in execution proceedings as per settled principles, being co-sharers if so.

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 appeals and delay applications are disposed of. Liberty is granted to the land owners to agitate their grievances in accordance with the above settled proposition of law.

A photocopy of this order be placed on the file of the connected case.

15.05.2019

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No