

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

**RFA No.6450 of 2015 (O&M)
Decided on : 08.01.2019**

Mangali

...Appellant

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Vikram Singh, Advocate, for the appellant.

Ms.Vibha Tewari, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

CM-13165-CI-2015

Application for condonation of delay of 358 days in refiling the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 358 days in refiling the present appeal is hereby condoned.

CM stands disposed of.

CM-13166-CI-2015

Application for condonation of delay of 58 days in filing the appeal has been filed.

Reply to the same has not been filed by the respondents.

Accordingly, in view of the averments made in the application, duly supported by affidavit, the present application is allowed and the delay of 58 days in filing the present appeal is hereby condoned.

CM stands disposed of.

RFA-6450-2015

The present appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), has been filed against the award of the Addl.District Judge, Sonapat dated 15.02.2014, whereby the reference petition of the appellant, filed under Section 30 of the Act was dismissed.

The reasoning given by the Reference Court is that the name of the appellant did not figure in the revenue records whereas the name of Jagdish-respondent No.4 was mentioned in the column of possession and therefore, the appellant was held not entitled for apportionment of the compensation. The oral evidence of the appellant was held not sufficient to rebut the documentary evidence led by respondent No.4 to dislodge the claim of ownership as tenant.

A perusal of the paperbook would go on to show that the land was acquired vide notification dated 02.05.2007, for the purpose of development of industrial and residential complex under Phase-III of the land falling in various villages, namely, Lalheri, Barhi and Garhi Kesari. The Land Acquisition Collector, vide award dated 28.01.2010, had fixed the market value of the land @ Rs.30,00,000/- per acre along with all statutory benefits.

An application came to be filed by the appellant under Section 30 of the Act that he was in possession of 12 marlas of land in Village Garhi Kesari as Gair Marusi Billa Lagaan Bevajeh Navakafit, from the time of his fore-fathers and prior to the time of consolidation and accordingly, sought apportionment of the compensation assessed.

Same was contested by respondent No.4-Jagdish that the land was owned and possessed by the said respondent and the appellant never cultivated the same and was not in possession. In the absence of any evidence, as such, having been led in the form of revenue record or otherwise, to show that the appellant was in possession of 12 marlas of land, which was acquired, the Reference Court rightly recorded the adverse findings.

Counsel for the appellant could not point out as to how the judgment impugned suffers from any infirmity which would warrant interference by this Court, in the absence of any such evidence. Keeping in view the settled principle that it is for the appellant himself to plead and prove his case, to bring himself entitled for grant of compensation on account of his alleged possession, this Court does not feel any hesitation in upholding the said award.

Accordingly, in view of the above discussion, the present appeal is dismissed.

January 8th, 2019
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*