

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207 & 208

RFA-5008-2017 (O&M)
along with connected appeals bearing
RFA-5009, 5089 & 5090-2017 (O&M)
Date of decision: 29.04.2019

Harvinder & others

....Appellants

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Sandeep Verma, Advocate, for the appellants.

Ms.Vibha Tewari, AAG, Haryana.

Mr.Pritam Saini, Advocate, for HSIIDC.

G.S. SANDHAWALIA, J. (Oral)

Applications for condonation of delay

Applications have been filed for condonation of delay ranging between 2817-2960 days in filing the present appeals.

Counsel for the appellants submits that matter has now been finalized by the Apex Court in CA-9553-2011 titled *Haryana State Industrial Development Corporation, Haryana Vs. Nand Ram & others*, decided on 26.11.2014.

Accordingly, keeping in view the above facts and the fact that the interest of the State can be protected, in view of the judgments of the Apex Court passed in **Imrat Lal and others vs. Land Acquisition Collector and others, 2014 (14) SCC 133** and **Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2014 (14) SCC 127**, in view of the averments made in the application, duly supported by affidavit, delay of 2817-2960 days in filing the present appeals is condoned, subject to the condition that the appellants shall not be entitled for the benefit of interest for the said period.

RFA-5008, 5009, 5089 & 5090-2017 (O&M)

CM stands disposed of.

The present appeals, filed under Section 54 of the Land Acquisition Act, 1894, are directed against the award dated 28.02.2009. The Reference Court, Rewari had granted Rs.8 lakhs falling on both sides of the National Highway No.8 and Rewari-Bawal road and Rs.6 lakhs for the other land respectively, for the notification dated 11.12.1995. This Court in RFA-3541-2006 titled *Nand Ram & others Vs. State of Haryana & others*, decided on 14.09.2010, while deciding a set of appeals, which were filed both by the landowners and HSIIDC, assessed the market value in three categories, i.e., for the land falling on National Highway No.8 @ Rs.12,00,000/- per acre, as against Rs.8,00,000/- per acre, on Rewari-Bawal road, @ Rs.7,50,000/- per acre as against Rs.8,00,000/- per acre and for the balance land, the amount was fixed @ Rs.4,00,000/-.

It is the case of the appellants that they were respondents in the cross-appeals bearing RFA-4451, 4445, 4447 & 4454-2009 and therefore, the amounts were varied to their disadvantage. However, in view of the matter being taken to the Apex Court both by the landlosers and HSIIDC, modification has been done and the market value has been fixed @ Rs.8,00,000/- and Rs.6,00,000/- per acre for the 2 categories, without interfering for the land which was assessed at Rs.12,00,000/- per acre. Relevant portions of the judgment read as under:

“Keeping in mind the aforesaid, the High Court though enhanced compensation payable for the lands adjoining NH No. 8 to Rs.12/- lacs per acre, reduced the compensation awarded for (a) lands on the Rewari-Bawal road to Rs.7.5/-

lacs per acre as against Rs.8/- lacs per acre and for the rest of the land from Rs.6/- lacs per acre to Rs.4/- lacs per acre, by order dated 14.09.2010.

xxxx xxxx xxxx

23. The High Court, in our considered opinion, has not taken into consideration the potentiality of the acquired lands in determination of its market value uniformly to all the acquired lands and erroneously reduced the compensation which was awarded to the claimants/land-loosers by the Reference Court.

24. In the instant case, the acquired lands have the benefit of being situated in an area the vicinity of which has an upcoming Industrial Growth Centre. Therefore, on account of development in adjoining area, these lands are naturally bound to be positively affected, in terms of both- their market value and potentiality. The said lands also lay proximate to the National Highway and the State Highway. This further enhances potentiality of the said lands. While the same has been sufficiently noticed by the High Court in respect of lands situate closer to National Highway and Chahi lands, the High Court has erred by failing to appropriately determine the potentiality and market value of the lands which lay closer to the State Highway No.71 (Rewari-Bawal road) and other lands. The same ought to have been noticed by the High Court while determining the compensation and in absence of the said exercise, the amount awarded as compensation is not justified in law.

xxxx xxxx xxxx

26. Herein, since all the lands were situated close to the National Highway and Industrial Growth Centre at varied distances, while arriving at the increase ratio of 150% for the lands situated closer to State Highway No.71 (Rewari- Bawal road) and other lands, the High Court ought to have considered the sale deeds produced by the appellants, relied upon by the Reference Court, which are proximate in time of notification,

for lands closer to the location of acquired land and were bona fide sold to private parties for sale consideration ranging between Rs.7.20/- lacs to Rs.8/- lacs per acre. The said sale instances were proved by the appellants and remain unassailed. Therefore, the sale amount was considered by the Reference Court and accordingly, it had justifiably calculated the market value for award of compensation to Rs.8/- lacs per acre for lands situated closer to National Highway No.71 (Rewari-Bawal Road) and Rs.6/- lacs per acre for land other than the said lands. The High Court was not justified in ignoring the relevant evidence available on record and reducing the compensation awarded by the Reference Court in awarding an unrealistic and comparatively meager compensation to the appellants herein.

27. In light of the aforesaid, we are of the considered opinion, that the impugned order passed by the High Court is liable to be set aside and the order passed by the Reference Court requires to be upheld by enhancing the compensation awarded from Rs.7.5/- lacs per acre to Rs.8/- lacs and from Rs.4/- lacs to Rs.6/- lacs per acre, as the case may be. It is further directed that the appellants are entitled interest @ 6% per annum on the enhanced amount from the date of the notification passed under Section 4 of the Act. The Civil Appeal is allowed to the extent indicated above.

28. In view of the order passed in C.A.No.9372 of 2011, the connected appeals are also allowed and disposed of, in the same terms, conditions, observations and directions. No order as to costs.”

Accordingly, keeping in view the above, the present appeals are allowed. Appellants shall be entitled for the benefit of the market value, as fixed by the Apex Court, along with all statutory benefits. However, it is made clear that appellants shall not be entitled for the

benefit of interest on the enhanced compensation for the said period of
delay in filing the appeals ranging between 2817 to 2960 days.

29.04.2019
Sailesh/Naveen

(G.S. SANDHAWALIA)

JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*