

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

203

RFA-4564-2018 (O&M)

Date of decision: 06.09.2019

Rohtash & others

Versus

....Appellants

State of Haryana & others

...Respondents

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

Present: Mr.S.K.Yadav, Advocate, for the appellants.

Ms.Vibha Tewari, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

CM-10825-CI-2018

Application has been filed for condonation of delay of 2394 days in refiling the appeal, which is directed against the award dated 19.05.2011.

A perusal of the application would go on to show that the appeal was originally filed on 14.09.2011 and on return from the Registry for removing objections, it had been got misplaced. Accordingly, sufficient cause has been made out to condone the delay and in view of the averments made in the application, duly supported by affidavit, same is allowed. Delay of 2394 days in refiling the present appeal is hereby condoned.

CM stands disposed of.

CM-10824-CI-2018

Application for condonation of delay of 20 days in filing the present appeal, is allowed, in view of the averments made in the application, duly supported by affidavit and in view of the nominal delay. Delay of 20 days in filing the present appeal is hereby condoned.

CM stands disposed of.

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

RFA-4564-2018

-2-

The Reference Court, for the notification dated 30.11.2007, has enhanced the amount of compensation from Rs.16 lakhs per acre to Rs.20 lakhs, which was acquired for the purpose of construction of Khatawali Minor.

It is not disputed that the said amount has been upheld but the additional benefit of 20% severance has been granted in **RFA-5138-2011** titled *State of Haryana & others Vs. Lal Singh & another*, decided on 10.12.2015, wherein a bunch of appeals had been decided. Relevant portion of the judgment reads as under:

“Keeping in view the aforesaid material on record, in my opinion, the learned court below has not committed any error in assessing the compensation @ ` 20,00,000/- per acre. Accordingly, the appeals and cross-objections are dismissed as regards the valuation of land is concerned.

As far as the contention raised by learned counsel for the landowners regarding award of compensation on account of severance is concerned, the fact that on account of acquisition of land for construction of Khatawali minor, land of some of the landowners has been divided into two parts, has not been disputed. It has even been so recorded by the Reference Court, but still damages on account of severance of land have not been awarded, which the landowners deserve to be granted. On account of acquisition and construction of a minor/drain/distributory, it becomes difficult to cultivate the other portion of the land and to cross over to the other side. The level of a drain/ minor is always above the level of the land, which makes it difficult to irrigate or use the divided portions of the land to its optimum and also to approach the other portion of the land.

Considering the aforesaid facts, in my opinion, all the landowners, whose land has been divided into two portions shall be entitled to damages on account of severance at the uniform rate of

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

RFA-4564-2018

-3-

20% of the value of the acquired land. The land owners shall also be entitled to the statutory benefits available under the Act.

For the reasons mentioned above, the appeals filed by the State are dismissed and the appeals and cross-objections filed by the landowners are disposed of in the above terms.”

Accordingly, keeping in view the above, the present appeal is also disposed of in the same terms, by granting the benefit of severance @ 20% of the value of the acquired land.

06.09.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*