

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

**RFA No.4646 of 2018 (O&M)
Decided on : 13.02.2019**

Kishan Pyari and others

... Appellants

Versus

State of Haryana and another

... Respondents

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

Present : Mr. J.S. Hooda, Advocate
for the appellants.

Ms. Vibha Tewari, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)
CM-11016-CI-2018

Application under Section 5 of the Limitation Act for condonation of delay of 2258 days in filing the present appeal has been filed.

Keeping in view the averments made in the application and in view of the fact that the interest of the State can be protected by denying the appellants the benefit of interest for 2258 days in view of the law laid down by the Apex Court in '**Imrat Lal and others Vs. Land Acquisition Collector and others**' 2014 (14) SCC 133 and in '**Dhiraj Singh (D) through LRs. and others Vs. Haryana State and others**' 2015 (1) SCC (Civil) 236, the application is allowed.

The delay of 2258 days in filing the appeal is condoned, with the condition that the appellants shall not be entitled for interest on the enhanced compensation for the above said delay period in filing the appeal.

CM stands disposed of.

Main appeal

The present appeal under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') has been filed against the Award of the Reference Court, Palwal dated 24.12.2011, whereby it has enhanced the compensation from ₹16 lakhs per acre to ₹19 lakhs per acre for the notification dated 15.06.2006 issued under Section 4 of the Act.

In **RFA No.5231 of 2014 'Bhagwan Das Vs. State of Haryana and others'** decided on 10.12.2015, the amount of compensation was further enhanced to ₹22,80,000/- per acre, after putting 40% cut on Ex.P17, which was for ₹38 lakhs. The matter was further taken in the appeal and the Apex Court vide order dated 02.11.2017 passed in **Special Leave to Appeal (c) No(s).20674 of 2016 'Adani Logistics Ltd. Vs. Land Acquisition Collector and others'** has reduced the cut to 15%. The relevant portion of the said order reads as under:-

“In the instant case, sale instance was for approx. 5 acres; it was a bonafide transaction and has been rightly relied upon. Thus for smallness of area, no deduction was permissible as sale deed was for 5 acres. For the development, however, certain deduction was definitely required to be made. But deduction of 40% that has been made for smallness as well as for development, could not be said to be appropriate. Reliance has been placed on a decision of this court wherein, land had been acquired on Delhi Gurgaon Road with more or less similar kind of development; 15% deduction towards development was held to be sufficient in the peculiar facts of the said case. Though deduction on higher side can also be made for development, but it would depend upon the

facts of each case. In the instant case, considering the development that has taken place around the land, and the situation of the land being near the market, the aforesaid deduction would be appropriate.

Hence, in our considered opinion, instead of 40%, 15% deduction would be appropriate; rest of the Award is not disturbed. The payment be made as early as possible within four months.

The appeals are allowed to the aforesaid extent.”

Counsel for the State submits that in view of the above, the amount of compensation now comes to ₹32,30,000/- per acre.

Resultantly, the present appeal is allowed in the abovesaid terms and the landowners are held entitled for the above said compensation alongwith all statutory benefits except the benefit of interest on the enhanced compensation for the delay period of 2258 days in filing the appeal, which will not be paid to the appellants.

FEBRUARY 13, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No