

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.5126 of 2018 (O&M)

Date of Decision: 04.09.2019

Manjit Singh

... Appellant

VS.

State of Punjab & Ors.

... Respondents

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

Present: Mr. Kanwaljit Singh, Sr.Advocate with
Mr. Balwinder Singh, Advocate for the appellants

Ms. Jasleen Kaur Sidhu, AAG Punjab

Mr. Nitin Kumar, Advocate for Railways

G.S. SANDHAWALIA, J. (Oral)

Delay in filing

Applications under Section 5 of the Limitation Act have been filed for condonation of delay of 2710 to 2802 days in filing the above-cited appeals against the award dated 01.10.2009 passed by Additional District Judge, Fatehgarh Sahib. It has been mentioned that the connected appeals have also been filed by the respondent-Railways which had been admitted. As such the appellants were under the impression that their appeals have also been admitted and it was only in 2017 it came to light that the appellants' appeals were not listed along with the connected appeals on account of some objections. On enquiry it was found that the file was taken from the Registry by the earlier Clerk working in the office of the senior counsel and therefore the delay as such has occurred. It has further been averred that the connected appeals are still pending after admission and therefore the delay be condoned.

Replies have been filed to the application for condonation of

opposing the prayer made in the application on the ground that the affidavit of Clerk who made the mistake and took away the files has not been filed. It is accordingly mentioned that the appeals i.e. **RFA No.5579 of 2010 Swaran Singh vs. State of Punjab & Ors.** have been decided on 11.07.2019 and as such a false story has been concocted.

Keeping in view the averments made in the applications which are duly supported by affidavits as also in view of the fact that the interest of the respondents can be looked after in view of the judgment of the Apex Court in *Imrat Lal & others Vs. Land Acquisition Collector & others 2015 (2) RCR (Civil) 437* and *Dhiraj Singh (deceased) through LRs Vs. Haryana State & others 2015 (2) RCR (Civil) 507*, the applications are conditionally allowed. The delay of 2710 to 2802 days in filing the above-cited appeals is condoned with the condition that for the period of delay, the appellants shall not be entitled to the benefit of interest.

CMs stand disposed of.

Main case(O&M)

This order shall dispose of RFA Nos.5126, 5173 to 5177 of 2018 as the award impugned is common which is dated 01.10.2009 passed by Additional District Judge, Fatehgarh Sahib. The appeals pertain to village Sanghol, Tehsil Khamanon, District Fatehgarh Sahib whereby Land Acquisition Collector had granted Rs.8 lakhs per acre for the said village and Reference Court had granted the benefit of severance charges to the extent of 10%. An additional amount of solatium had also been granted which the Railways had challenged. In **Swaran Singh** case (supra) the uniform compensation to other villages was also granted from Rs.6 lakhs to Rs.8 lakhs per acre and all landowners had been held entitled for solatium @

30%. The order of Reference Court whereby additional amount was to be paid was set aside clarifying that solatium @ 30% was to be paid. The relevant portion reads as under:-

“36. Thus, the appeals of the Railways are liable to be allowed to this extent and the solatium is restricted to 30% on the uniform compensation of Rs.8 lakhs to the landowners.

37. Resultantly, the appeals are allowed to the extent:

(i) the landowners of all five villages shall get uniform rate of compensation @ Rs.8 lakhs per acre alongwith all statutory benefits;

*(ii) the percentage of severance would be enhanced from 10% to 30% of the market value where granted. However, it is made clear that on the amount of severance the landowners would not be entitled for the benefits of Section 23 (1A) and Section 23 (2) as it is not the market value as such and in view of the law laid down by the Apex Court passed in '**State of Punjab Vs. Amarjit Singh**', 2011 (4) SCC 734.*

(iii) Appeals of the railways are allowed to the extent that 30% additional amount on account of the solatium, which has been granted is set aside. It is clarified that the solatium will be @ 30% only as per the statutory provisions of Section 23 (2) of the Act.

38. Resultantly, the appeals are disposed of in the above terms. All the pending civil miscellaneous applications also stand disposed of.”

The present appeals are also allowed in above reproduced terms and the landowners are held entitled for severance charges @ 30% on account of Railway line bifurcating the land.

04.09.2019

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(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?

Yes/No

2. Whether reportable?

Yes/No