

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

RFA No. 638 of 2018 (O & M)

Date of decision: 18.11.2019

State of Haryana and another

....Appellant(s)

Versus

Deepa Devi and another

...Respondent(s)

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

Present: Mr. Shivendra Swaroop, AAG, Haryana,
for the appellants.

Mr. S.S. Dinarpur, Advocate,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 1564-CI of 2018

Application for condonation of delay of 340 days in filing the appeal is allowed, in view of the averments made in the application duly supported by affidavit.

Delay condoned.

Main Appeal

The present appeal is directed against the award of the Reference Court, Yamuna Nagar at Jagadhari dated 25.10.2016. The market value has been enhanced from Rs.20 lakhs per acre for the land situated in village Bhatauli within municipal limits and from Rs.10 lakhs per acre for the remaining land to Rs.3,610/- per square meter (Rs.1,46,09,164/- per acre). The enhancement is on the basis of the judgment of this Court in ***RFA No. 3860 of 2014, Ajmer Singh and others vs. State of Haryana and others*** for the notification dated 30.05.2005.

It is not disputed that the said judgment has been modified by the Apex Court in ***Manoj Kumar and others vs. State of Haryana and others, 2018 (2) RCR (Civil) 815*** and the amount has been reduced to Rs.95,00,000/- per acre. The relevant portion reads thus:-

“32. Even if we calculate compensation by adding between 12 to 13% flat increase, taking base price at Rs.1560/- granted in the case of Swaran Singh in the facts of the case, the price would come approximately to Rs.1.10 crores per acre. Further deduction in addition to deduction made in Swaran Singh’s case (supra) is required to be made towards development, it would be appropriate to deduct further amount of Rs.15 lakhs. Thus the compensation that we award comes to Rs.95 lakhs per acre, not Rs.1,46,09,000/- as determined by the High Court. Approximation of compensation, when made on comparable sale method, would by and large be similar. We reduce the amount awarded by the High Court. Thus, we deem it appropriate to award the amount @ Rs.95 lakhs per acre along with statutory benefits.”

To this, counsel for the land owners has no response and, therefore, the market value is liable to be reduced to Rs.95 lakhs per acre alongwith all statutory benefits.

It is to be noticed that the cross appeal for enhancement filed by the land owners being RFA No. 1821 of 2017 has been dismissed on 02.08.2017. The only issue which arises, as contended by counsel for the State, is whether the reference petition under Section 18 of the Land Acquisition Act, 1894 (in short 'the Act') was to be dismissed on the ground of limitation as admittedly, the award was passed on 16.07.2007 and the

reference was filed on 31.01.2013. The compensation was only received after the filing of the reference petition on 12.09.2013.

Counsel for the State has submitted that the reliance by the Reference Court as such upon the judgments in ***Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2015 (2) RCR (Civil) 507 and Market Committee, Hodal vs. Krishan Murari and others, 1996 (1) SCC 311*** had been placed on alongwith the judgment in ***Samiyathal and others vs. Special Tehsildar and others, 2015 (2) RCR (Civil) 441*** to repel the argument of the State that the reference petition was beyond the period of limitation under Section 18(2)(b) of the Act. The Reference Court, as such, had noticed that the land owner had not been cross examined on this point and, therefore, it could not deny the land owner the due entitlement of compensation. But the land owners were held not entitled for the interest for the period for which they did not approach the Court/Authority i.e. the period beyond 6 months of the passing of the award by the Land Acquisition Collector.

As noticed, the land owner's appeal has already been dismissed on this point and, therefore Mr. Dinarpur is in no position to assail this aspect of the finding as such. However, from the record, it would be clear that it was the categorical case of the land owner that no information was given to her regarding the acquisition and she came to know about the award only in December, 2012. She was a *parda nashin* lady and not aware of the legal formalities.

The State, in its reply, did not deny the said aspect. The application for condonation of delay has also been filed taking the same averments which, however, was not maintainable as such in view of the

period of limitation being fixed as such under the Act itself. It has been settled time and again by the Apex Court that the statutory period provided under the Act cannot be extended under the limitation. The judgments relied upon by the Reference Court were where delay had been condoned in filing appeals in view of the provisions of the Limitation Act, 1963 and not regarding the filing of references under Section 18 of the Act.

However, the fact remains and as noticed even from the record that even if an issue is not framed regarding the point of limitation, the Reference Court is under an obligation as such to decide the issue. The Reference Court, thus, noticed that the land owner's specific stand had not been controverted in any manner regarding the lack of knowledge of the award. The land owner lady did not put in appearance as a witness and her husband had filed an affidavit in respect of the claim. The necessary averments were again made that she was not aware of the announcement of the award. The State, in its cross examination, could not elicit any such information that the land owners were aware of the award having been announced or she was present at the time of the passing of the award. The contention of the State that notice under Section 9 of the Act as such had been served does not show that the said notice was served as such being in format form of the Land Acquisition Collector that the applicants have submitted their claim on 07.02.2007 and demanded higher compensation. The said document does not show any signature of receipt of the land owner. A perusal of the record would go on to show that apart from Anil Kumar-Patwari, who had appeared and produced the judgment Ex.P-1, no such evidence had been led that the Section 9 notice had been served and the land owners were aware of the acquisition proceedings. In such

circumstances, the reference has rightly been held to be within limitation and the argument of the State that it is liable to be dismissed on the point of limitation is without any basis.

Resultantly, the ground for dismissing the reference under Section 18 is rejected. The appeal is partly allowed to the extent that the award dated 25.10.2016 is modified and the market value @ 95 lakhs per acre is assessed alongwith all statutory benefits. Needless to say that the land owner will not be entitled to the interest for the period for which she did not approach the Court/Authority, as observed in para no. 23 of the impugned award.

18.11.2019
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

