

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

**RFA-13604-2018 (O&M)
Date of Decision: 16.12.2019**

Brahampal (deceased) through LRs and another

..... Appellants

Versus

Haryana State and others

...Respondents

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

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

Ms. Vibha Tewari, AAG, Haryana.

None for HSIDC.

G.S. SANDHAWALIA, J. (Oral)

CM-13210-CI-2018

Delay of 2645 days in filing the appeal is condoned conditionally in view of law laid down by the Apex Court in *Imrat Lal and others vs. Land Acquisition Collector and others, 2015 (2) RCR (Civil) 437 and Dhiraj Singh (D) through L.Rs. vs. Haryana State and others, 2015 (2) RCR (Civil) 507* that the appellants shall not be entitled to interest for 2645 days on the enhanced amount of compensation.

Application stands disposed of.

CM-13208-CI-2018 and CM-11070-CI-2019

Application for bringing on record LRs of deceased Braham Pal and Jag Pal has been filed, who are the appellants No.1 & 2.

An additional affidavit has been filed vide CM No. 11070-CI of 2019 showing the relationship of the applicant sought to be brought on record.

Accordingly, in view of the averments made in the applications, duly supported by affidavits of Dinesh, appellant No.6, as mentioned in para Nos. 2 & 3 of the application, are brought on record, only for the purpose of pursuing the present litigation.

CMs stand disposed of.

RFA-13604-2018

The appeal arises out of the award dated 21.03.2011 of the Reference Court, Palwal. The land is situated in village Allika, Tehsil Palwal which was acquired vide notification dated 25.08.2005 for the construction of the Kundli Manesar Palwal Express Highway. The compensation awarded by the Land Acquisition Collector was @Rs.12,50,000/- per acre. The reference petition was dismissed as no evidence was led before the Reference Court. It is pertinent to mention that as many as 22 reference petitions were disposed of vide the impugned order. Counsel for the appellant has pointed out that four appeals out of the said award have been allowed by placing reliance upon the judgment in ***RFA No. 2322 of 2011, Usha Rani and others vs. State of Haryana and others*** wherein, a sum of Rs.48,57,000/- per acre was assessed as market value for

the notification in question for the 8 adjoining villages which had also been granted to the landowners of village Allika.

Counsel for the State, on the other hand, submitted that the judgment has been modified in ***SLP Nos. 20497-20500 of 2016, Bharti and another vs. State of Haryana and others*** on 21.09.2017 wherein, the market value as such has been reduced to Rs.32,62,500/- per acre. The relevant part of the order of the Apex Court reads thus:-

“In the facts of the case considering its situation for development and smallness of comparable land we deduct approximately 32 to 33% of amount. We reduce the compensation, as determined by the High Court, to Rs.32,62,500/- per acre for aforesaid villages of District Palwal. The amount of compensation awarded at the aforesaid rate, to carry the statutory benefits. The amount which has not been paid so far be paid within a period of three months from today.”

Counsel for the State has attempted to distinguish the judgment in *Usha Rani's* case (supra) to submit that village Allika was not mentioned in the said judgment and, therefore, it would not be applicable in the facts and circumstances.

The said argument is not liable to be accepted that since as noticed above, the 22 reference petitions were dismissed for village Allika vide the impugned award. At least 4 appeals have been allowed bearing RFA Nos. 2869, 4300, 4301 and 4304 of 2016 between 05.09.2016 to 02.02.2017. This aspect was also put to the State on 29.10.2019 that whether any application for review or modification has been filed in the

above mentioned RFAs. State is not in a position to inform this Court that the said orders have been sought to be modified or reviewed.

In similar circumstances in RFA Nos. 4947, 5575 of 2017 and 13552 of 2018 titled, 'Samay Pal vs. State of Haryana and others', decided on 04.12.2019, the relief was also granted to similar situated landowners who had also filed appeal in which the award dated 21.03.2011 of the Reference Court, Palwal was challenged.

In such circumstances, the landowners, being identically placed as the others and having got the relief, they would also be entitled for the same amount of compensation as fixed by the Apex Court in ***Bharti's*** case (supra) along with all statutory benefits. It is not disputed that the land has been acquired for the construction of the KMP Express Highway and the lands are similarly situated as the land which was acquired for the highway for the first time by cutting through agricultural lands away from the developed portions.

Resultantly, the appeal is allowed in the above said terms of the order of the Apex Court.

(G.S. SANDHAWALIA)
JUDGE

16.12.2019
Satyawar

Whether reasoned/speaking: Yes
Whether reportable: no