

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

**RFA No.1824 of 2018 (O&M)
Decided on : 10.02.2020**

Dunger Singh (deceased) th LRs & others ... Appellants
Versus
State of Haryana & others ... Respondents

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

Present: Mr.Rajinder Kumar, Advocate, for
Mr.M.S.Tewatia, Advocate, for the appellants.

Ms.Vibha Tewari, AAG, Haryana.

Mr.Deepak Saini, Advocate, for
Mr.Pritam Saini, Advocate, for HSIIDC.

G.S. Sandhawalia, J. (Oral) :-

CM-4144-CI-2018

Application has been filed for impleading the legal representatives of deceased-appellant No.1, Dunger Singh, who is stated to have expired on 24.01.2010, leaving behind his legal representatives, as mentioned in para No.2 of the application.

Accordingly, in view of the averments made in the application, duly supported by affidavit of Lachman Singh, son of the deceased/appellant, appended vide CM-8608-CI-2019, in compliance of the order dated 24.07.2018, same is allowed. Legal representatives, as mentioned in para No.2 of the application are allowed to be brought on record, only for the purpose of pursuing the present litigation. Amended memo of parties is taken on record. Office to append the same at appropriate place.

CM stands disposed of.

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CM-4142-CI-2018 in/and RFA-1824-2018 (O&M)

The present appeal, filed under Section 54 of the Land Acquisition Act, 1894, has been preferred against the award of the Reference Court, Palwal dated 30.05.2011, whereby the landowners have not been given any benefit of enhancement for the land which has been acquired vide notification dated 25.08.2005, falling in Village Yadupur, Tehsil Palwal, District Faridabad and the amount was maintained @ Rs.12,50,000/- per acre, as awarded by the Land Acquisition Collector. The appeal is barred by 1741 days and the reasons given are that the appellants are poor rustic villagers and they had come to know that similarly situated persons whose land was acquired for the Kundli-Manesar Highway, have filed appeals before this Court and the market value has been enhanced. Resultantly, the delay is sought to be condoned.

Counsel for the landowners has submitted that the matter would be covered by the judgment dated 28.03.2016, passed in RFA-2322-2011 titled *Usha Rani & others Vs. State of Haryana & others*, whereby the market value has been enhanced to Rs.48,57,000/- per acre. It is submitted that the matter had been taken to the Apex Court, thereafter, in SLP (C) Nos.20497-20500-2016 titled *Bharti & another Vs. State of Haryana & others*, decided on 21.09.2017 and the market value had been reduced to Rs.32,62,500/- per acre for the villages which fell in District Palwal. Accordingly, enhancement is also sought by submitting that the Reference Court, in the present case, had decided as many as 17 references, the lead case of which was LAC-213-2009 titled *Tek Singh @*

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Tek Chand Vs. The State of Haryana & others. The said landowner had filed RFA-597-2017 titled *Tek Singh @ Tek Chand Vs. State of Haryana & others* and had got the same amount of compensation as granted in Usha Rani's case (supra), vide order dated 26.04.2017. Resultantly, the same amount of compensation is prayed for, being covered by the judgment of the Co-ordinate Bench of this Court.

State Counsel, on the other hand, has pointed out that judgment in Usha Rani's case (supra) does not cover Village Yadupur and dealt with 8 other villages though the notification is also dated 25.08.2005. It is, accordingly, submitted that in such circumstances, on a wrong concession given in Tek Singh's case (supra), the landowners cannot claim parity. It is further pointed out that another reference bearing LAC-225-2009 titled *Khubi Ram Vs. State of Haryana* had also been decided alongwith the impugned award. The said landowner had filed RFA-441-2018 titled *Khubi Ram & others Vs. State of Haryana & others*, which was dismissed on 06.09.2018 alongwith the application for condonation of delay. Said order read as under:

“None is present on behalf of the appellants. Even on the last date of hearing none was present. While issuing notice of motion on 20.03.2018, the issue was raised by the counsel for the appellants that the case is covered by the judgment passed in SLP (C) Nos.20497-20500 of 2016 'Bharti and another Vs. State of Haryana and others' decided on 21.09.2017. Thereafter, counsel for the State has confirmed that in the above said case name of village Yadupur, Tehsil Palwal, District Faridabad did not find mention and the market value was not fixed of the said village, for which

₹12,50,000/- per acre has been now assessed by the Land Acquisition Collector for the notification dated 25.08.2005 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'). The land was acquired for the construction of Express Highway connecting National Highway No.1-10-8 & 2 Kundli Manesar Palwal.

The impugned Award dated 30.05.2011 would go on to show that apart from oral evidence, the landowners had failed to place on record any other sale deed as such to substantiate their claim for enhancement. Rather sale deeds (Ex.R-1 and R-2) of the said village showed that market value was only ₹2,40,000/-per acre and, therefore, the amount awarded by the Land Acquisition Collector even is in excess of that.

Resultantly, this Court is of the opinion that no case is made out for entertaining the appeal, which is even barred by limitation by 2344 days of delay in filing the same.

Accordingly, both the appeal and application for condonation of delay are dismissed.”

From the above observations, it would be apparently clear that the appellants, as such, cannot seek the same benefit as granted in Tek Singh's case (supra), as a perusal of the said judgment would go on to show that notice was accepted by the counsels for the State and HSIIDC in Court and the matter was disposed of on the same day. It was also not brought to the notice of the Co-ordinate Bench that the matter was pending before the Apex Court whereby appeals had been filed, both by the State and the landowners. Thus, a wrong concession granted cannot endure in its entirety and therefore, the landowners are not entitled for the above-said benefits and rather parity has to be maintained with Khubi Ram's case (supra).

Accordingly, in view of the above discussion, the application for condonation of delay in filing the appeal as well as the main appeal are dismissed.

February 10th, 2020
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No