

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 13261 of 2021

Date of Decision: 06.09.2021

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Dheere (Deceased) through LRs and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Baldev Raj Mahajan, Senior Advocate
with Mr. Pritam Singh Saini, Advocate
for the petitioner(s).

Mr. Saurabh Dalal, Advocate
for respondent No.1 to 4.

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for respondent No.5 and 6..

Anil Kshetarpal, J.

1. Through this writ petition, the Haryana State Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as “HSIIDC”) assail the correctness of the order passed by the District Revenue Officer-cum-Land Acquisition Collector, Jhajjar, dated 03.02.2021 while condoning the delay of 2346 days in filing the application under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”). The question, which arises for determination, is as to whether the Land Acquisition Collector has the power to condone the delay under Section 5 of the Limitation Act, 1963 (hereinafter referred to as “the 1963 Act”).

2. The undisputed facts are that 40 kanals 5 marlas of land belonging to the petitioner was notified under Section 4 of the 1894 Act issued on 11.07.2006. The Land Acquisition Collector, vide award No. 27 dated 16.01.2007, assessed the market value of the land under Section 11 of the 1894 Act. The other identically situated owners applied for remitting forward the reference to the Court under Section 18 of the 1894 Act, but the contesting respondents herein did not apply under Section 18. The reference Court assessed the market value of the land @ ₹15,50,895/- vide a judgment dated 01.06.2013. The contesting respondents filed an application under Section 28-A of the 1894 Act on 05.02.2020 i.e. after a period of 2346 days of delay. Section 28-A of the 1894 Act gives another opportunity to the landowners to file an application for re-determination of the compensation on the basis of the award passed by the reference Court within a period of three months while excluding the period spent for obtaining the certified copy of the judgment. In the present case, as noticed, the contesting respondents filed the application after a colossal delay.

3. The Land Acquisition Collector is not a Court and acts as a quasi-judicial authority. Section 5 of the 1963 Act is applicable to the Court and not to the quasi-judicial authority. The Supreme Court, while interpreting Section 28-A of the 1894 Act, has laid down that the Land Acquisition Collector has no power to condone the delay. A reference in this regard can be made to the judgment in ***Popat Bahiru Goverdhane and Others v. Special Land Acquisition Officer and Another (2013) 10 SCC 765***. Paras 13 and 14 of the said judgment read as under:-

“13. In view of this settled legal position though the Court

may have sympathy for persons like the Petitioners who have lost chance of re-determination of the compensation on account of delay of only 3 days; but the out come is inevitable. Such sympathy cannot permit this court to condone delay by exercising the so called unlimited jurisdiction under Article 226. The jurisdiction under Article 226 cannot be exercised in such a situation particularly when the law is well settled and clear.

14. In the result, all the Writ Petitions will have to be dismissed and the same are accordingly dismissed. Rule is discharged in all the Petitions”

4. Keeping in view the aforesaid facts, it is apparent that the order passed by the Land Acquisition Collector is clearly beyond jurisdiction. Since he has no power to condone the delay, therefore, the order is perverse.

5. Keeping in view the aforesaid facts, this Bench has no hesitation to set aside a patently perverse order.

6. With these observations, the writ petition is allowed and the order dated 03.02.2021, passed by the District Revenue Officer-cum-Land Acquisition Collector, Jhajjar, is quashed.

(Anil Kshetarpal)
Judge

September 06, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No