

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
107 (PROCEEDINGS THROUGH V.C.)**

Date of decision: 14.02.2022

**CM-300-LPA-2022 & CM-299-LPA-2022
CM-301-LPA-2022 & LPA-122-2022**

**HARYANA URBAN DEVELOPMENT AUTHORITY NOW HARYANA
SHEHRI VIKAS PRADHIKARAN**

...APPELLANT

Vs.

M/S SHINE BUILDCON PRIVATE LTD. AND OTHERS

...RESPONDENTS

**CM-297-LPA-2022 & CM-296-LPA-2022 &
CM-298-LPA-2022 & LPA-121-2022**

**HARYANA URBAN DEVELOPMENT AUTHORITY NOW HARYANA
SHEHRI VIKAS PRADHIKARAN**

...APPELLANT

Vs.

M/S DIVYA BUILDCON PRIVATE LTD. AND OTHERS

...RESPONDENTS

**CM-303-LPA-2022 & CM-302-LPA-2022 &
CM-304-LPA-2022 & LPA-123-2022**

**HARYANA URBAN DEVELOPMENT AUTHORITY NOW HARYANA
SHEHRI VIKAS PRADHIKARAN**

...APPELLANT

Vs.

M/S DIVYA BUILDCON PRIVATE LTD. AND OTHERS

...RESPONDENTS

**CM-306-LPA-2022 & CM-305-LPA-2022 &
CM-307-LPA-2022 & LPA-124-2022**

**HARYANA URBAN DEVELOPMENT AUTHORITY NOW HARYANA
SHEHRI VIKAS PRADHIKARAN**

...APPELLANT

Vs.

M/S GLORIOUS INFORMATICS PRIVATE LTD. AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

**Present: Mr. Lokesh Sinhal, Addl. A.G. Haryana,
for the appellant.**

AUGUSTINE GEORGE MASI, J.

CM-299-LPA-2022 IN LPA-122-2022

Prayer in this application is for condonation of delay of 148 days in re-filing the appeal.

For the reasons mentioned in this application, the same is allowed. Delay of 148 days in re-filing the appeal is condoned.

CM-296-LPA-2022 IN LPA-121-2022

Prayer in this application is for condonation of delay of 129 days in re-filing the appeal.

For the reasons mentioned in this application, the same is allowed. Delay of 129 days in re-filing the appeal is condoned.

CM-302-LPA-2022 IN LPA-123-2022

Prayer in this application is for condonation of delay of 148 days in re-filing the appeal.

For the reasons mentioned in this application, the same is allowed. Delay of 148 days in re-filing the appeal is condoned.

CM-305-LPA-2022 IN LPA-124-2022

Prayer in this application is for condonation of delay of 147 days in re-filing the appeal.

For the reasons mentioned in this application, the same is allowed. Delay of 147 days in re-filing the appeal is condoned.

CM-300-LPA-2022 IN/AND LPA-122-2022

CM-297-LPA-2022 IN/AND LPA-121-2022

CM-302-LPA-2022 IN/AND LPA-123-2022

CM-306-LPA-2022 IN/AND LPA-124-2022

Prayer in these applications preferred under Section 5 of the Limitation Act is for condonation of delay of 178 days in LPA No. 123 of 2022 and 170 days in filing the other appeals.

2. It has been stated in the applications that the learned Single Judge had allowed the writ petitions preferred by the respondents-petitioners vide order dated 25.01.2019. However, the certified copy of the order was not received in the office of the applicant-appellant but an information was received from the office of the Advocate General, Haryana in this regard. The said order passed by the learned Single Judge was considered at the level of the Administrator, Haryana Shehri Vikas Pradhikaran, Gurugram and a decision was taken to file appeals challenging the said order by engaging its own counsel. The file was thereafter sent to the Headquarters at Panchkula and vide order dated 09.08.2019, counsel was engaged for filing the appeals which were filed on 13.08.2019. This has led to a delay of 170 and 178 days in filing the appeals. The delay in filing the appeals is stated to have occurred due to inevitable circumstances which were beyond the control of the applicant-appellant and on this basis, prayer has been made for condoning the delay in filing the appeals.

3. We have considered the pleadings in the applications but do not find ourselves in a position to accept that the mandate and requirement of the provisions of the Statute, as laid down in Section 5 of the Limitation Act, being fulfilled.

4. It is not in dispute that each day spent/utilized, which has led to the delay in filing the appeals, is required to be explained but no details whatsoever are forthcoming in these applications. It has not been mentioned as to when the certified copy of the order dated 25.01.2019 passed by the learned Single Judge had been applied for. The date of receipt of the certified copy of the judgment and even the date, on which the information was received from the office of the Advocate General, Haryana with regard

to the above-mentioned order having been passed, is not indicated. What has been stated is that on receipt of the order of the learned Single Judge, the same was examined and on 25.06.2019, it was decided at the level of the Administrator, Haryana Shehri Vikas Pradhikaran, Gurugram to file appeals through a counsel to be engaged. The matter is said to have been sent to the Headquarters but the date of such sending of the order and the decision is missing. Similar is the aspect with regard to the receipt, dealing and decision for engaging the counsel. What has been pointed out is that a letter dated 09.08.2019 was sent to the counsel, who has filed the appeals, on his engagement leading to the filing of the appeals on 13.08.2019.

5. The above facts, as have been narrated in the applications, cannot be accepted to indicate that the applicant-appellant was vigilant enough and had taken all precautions and actions to avoid delay in filing the appeals rather it smells of inaction and lethargy at the end of the officials and the officers of the appellant which cannot be said to be such circumstances which were inevitable and beyond the control of the applicant-appellant. The explanation, therefore, being absent and that too, without justification for the delay in filing the appeals cannot be accepted and, thus, the applications deserve dismissal.

6. In any case, on merits also, the learned counsel for the applicant-appellant has been heard who has pleaded that the learned Single Judge has proceeded to consider the liability of the appellant to pay statutory interest in terms of Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the 2013 Act”) on account of non-deposit of compensation/delay in disbursement thereof. What has been asserted is

that the proceedings for acquisition were completed under the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”). The provisions of the said Act should have been made applicable despite the fact that the Award was pronounced on 09.12.2016.

7. This plea of the counsel for the appellant would not cut ice as when confronted with Section 34 of the 1894 Act, language of which is para-materia to Section 80 of the 2013 Act, the counsel was unable to come out of the details relating to the facts, on which reliance has been placed by the learned Single Judge to grant interest to the respondents-petitioners.

8. On facts, it is not in dispute that the award was passed on 09.12.2016 and the possession of the land was taken on the same date. Para-8 of the award refers to the Rapat vide which it was entered in the Roznamcha Wakayati of Patwari Halqua Badshahpur and it was further mentioned that the possession of the land having been taken of the acquired land vests completely with the appellant free from all encumbrances. The compensation amount has been disbursed to the respondents-petitioners on different dates by way of RTGS transfer indicating that the disbursal of the amount is not at the time of announcement of the award or taking possession thereof, meaning thereby that there is delay in payment of compensation attracting interest on such delayed payment of compensation. It is not in dispute that the rate of interest is 9% per annum from the time of taking possession until the time of payment or deposit if the same is so done within a period of one year and beyond the said period of one year, interest would be at the rate of 15% per annum as provided under Section 34 of the 1894 Act.

9. This issue is no more *res integra* in the light of the various

judgments passed by the Hon'ble Supreme Court dealing with the mandate to pay interest to the land holders for any delayed payment. Reference in this regard may be made to the judgments in **Gurpreet Singh vs. Union of India**, (2006) 8 SCC 457, **Rakesh Kumar Jain and another vs. State of U.P.** (2007) 2 SCC 461, **Sunder vs. Union of India**, (2001) 7 SCC 211 as also **Delhi Development Authority vs. Sukhbir Singh and others**, 2016 (16) SCC 258.

10. In all these above-referred judgments, Hon'ble Supreme Court has clearly mandated and held in unmistakable terms that the land holders are entitled to interest from the date when possession was taken till the date of actual payment obviously at the rate as has been provided under the Land Acquisition Act depending upon the delay in making payment. The Hon'ble Supreme Court has gone to the extent of holding that it is only in a situation where the land holder refuses consent to receive monies payable or there be no person competent to alienate the land or if there be any dispute as to title to receive compensation or its apportionment, the Collector is to deposit the amount of compensation in the Reference Court as the ownership vests absolutely in the Government after passing of the Award. It is, therefore, clear that under the statutory scheme, the Collector must be armed with the amount of compensation payable to the persons interested as soon as the award is made.

11. In these cases, none of the contingencies with regard to which the liability for paying interest would cease to operate, as provided under the Statute, have been either mentioned or plea taken thereof. The title of the land is clear, meaning thereby that there is no lack of ownership or possession of the property nor is it the case of the appellant that the

respondents-petitioners are not entitled to compensation amount as assessed and awarded by the Collector in his award. The plea, thus, of the appellant with regard to there being no liability to pay interest cannot be accepted and is, hereby, rejected.

12. Another plea, which has been pressed into service by the learned counsel for the appellant, is that the amount of compensation could not be disbursed to the respondents-petitioners as they had not furnished the bank details and other relevant documents for disbursement of compensation. The said plea of the counsel for the appellant cannot be accepted in the light of the Instructions dated 24.09.2015 issued by the Additional Chief Secretary and Financial Commissioner to Government of Haryana, Revenue and Disaster Management Department which requires supply of information about the land owners, their names, their bank account number, bank details etc. before passing of the award.

13. It is also not in dispute that the respondents-petitioners had provided necessary details of bank accounts etc. to the Land Acquisition Collector, Gurugram prior to the passing of the Award as Clause 3 of the above-referred to Instructions dated 24.09.2015 mentioned that a decision has been taken that the compensation/award amount should be transferred in the account of the land owners, whose land is being acquired, through RTGS only. The practice of issuing cheques/bank drafts and taking signatures of land owners on the receipt slips need to be discontinued forthwith. Most importantly, for this purpose, it was required that before announcement of the award, the Land Acquisition Officers should collect information about the land owners, their names, their bank account number, bank details etc. so that after announcement of the award, amount can be

transferred through RTGS instantly.

14. This demolishes the claim and argument of the counsel for the appellant that the delay has occurred because of the non-furnishing of the requisite details of the bank accounts etc. by the respondents-petitioners. This can, at the most, be said to be an excuse which is sought to be projected to deny the rightful claim of interest on delayed payment of compensation to the respondents-petitioners.

15. In view of the above, no merit is found in the appeals also. Therefore, these appeals are dismissed being barred by limitation as also on merits.

CM-301-LPA-2022 IN LPA-122-2022

CM-298-LPA-2022 IN LPA-121-2022

CM-304-LPA-2022 IN LPA-123-2022

CM-307-LPA-2022 IN LPA-124-2022

In the light of the dismissal of the main appeals, these applications for stay have been rendered infructuos and the same are disposed of as such.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

**(SANDEEP MOUDGIL)
JUDGE**

February 14, 2022

pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No