

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

133

1. RFA-1075-2022(O&M)
Date of decision: 15.11.2022

SHANTI (DECEASED) THROUGH LRS AND ORS ..Appellants

Versus

STATE OF HARYANA AND OTHERS ..Respondents

2. RFA-1082-2022(O&M)

SHANTI (DECEASED) THROUGH LRS AND ORS ..Appellants

Versus

STATE OF HARYANA AND OTHERS ..Respondents

3. RFA-1083-2022(O&M)

SHANTI (DECEASED) THROUGH LRS AND ORS ..Appellants

Versus

STATE OF HARYANA AND OTHERS ..Respondents

4. RFA-1084-2022(O&M)

SHANTI (DECEASED) THROUGH LRS AND ORS ..Appellants

Versus

STATE OF HARYANA AND OTHERS ..Respondents

5. RFA-1166-2022(O&M)

AMIT AND ORS ..Appellants

Versus

STATE OF HARYANA AND OTHERS ..Respondents

6. RFA-1167-2022(O&M)

SMT. CHALTI AND ORS ..Appellants

Versus

STATE OF HARYANA AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.K. Malhotra, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

Mr. Pritam Singh Saini, Advocate
for HSIIDC.

ANIL KSHETARPAL, J(Oral)

CM-2638-CI-2022 in RFA-1075-2022

CM-2658-CI-2022 in RFA-1082-2022

CM-2667-CI-2022 in RFA-1083-2022

CM-2676-CI-2022 in RFA-1084-2022

CM-3026-CI-2022 in RFA-1166-2022

CM-3030-CI-2022 in RFA-1167-2022

For the reasons stated in the applications which are supported by an affidavit, the applications are allowed, subject to all the just exceptions.

The delay of 130, 166 & 169 days, respectively, in refiling the appeals, is condoned.

CMs stand disposed of.

CM-2642 & 2643-CI-2022 in RFA-1075-2022

CM-2662, 2663, 2664, 2665 & 2666-CI-2022 in RFA-1082-2022

CM-2671, 2672, 2673, 2674 & 2675-CI-2022 in RFA-1083-2022

CM-2680, 2681, 2682, 2683 & 2684-CI-2022 in RFA-1084-2022

CM-3034-CI-2022 in RFA-1167-2022

For the reasons stated in the applications which are supported by an affidavit, the applications for bringing on record the legal representatives of deceased late Smt. Shanti (appellant No.1) and Smt. Kasturi [appellant No.8(i)], Smt. Sarjo Devi [appellant No.14(i)], Sh. Shamsher [appellant No.14(iii)], Sh. Suraj Bhan [appellant No.14(iv)] and Smt. Krishna [appellant No.2], are allowed, subject to all the just exceptions.

CMs stand disposed of.

CM-2641-CI-2022 in RFA-1075-2022

CM-2661-CI-2022 in RFA-1082-2022

CM-2670-CI-2022 in RFA-1083-2022

CM-2679-CI-2022 in RFA-1084-2022

CM-3029-CI-2022 in RFA-1166-2022

CM-3033-CI-2022 in RFA-1167-2022

This order shall dispose of six applications filed for condoning the delay of 1545, 1558 days, respectively, in filing the appeal.

Admittedly, the connected appeals filed by various co-villagers came to be finally decided by a judgment in the lead case bearing **Regular First Appeal No.1625 of 2016, titled as “Nafe Singh and others Vs. State of Haryana and others”, decided on 10.11.2021**. The applications under Section 5 of the Limitation Act, 1963, are identically worded. In CM-2641-CI-2021, the condonation of 1545 days has been sought on the following grounds:-

“That the Appellants could not file the appeal with in time due to the reason that he is illiterate and counsel for the Appellants before the lower court has said that other connected persons have already filed the appeal and if the other persons will succeed then there is no need to file the appeal by the present Appellants. Ultimately Appellants waited for some time and asked from the other persons who have already filed the appeal they said that the appeal is still pending and from some other counsel Appellants have took suggestion and he is suggested that if present Appellants will not file the appeal then definitely in view of the other orders if passed in their favour will not get any relief but some said will get relief but now it was came in the knowledge that similar appeals have been decided in favour of the claimants and appellants rushed to the concerned authority but they said appellants have to file separate appeals also because their names are not in the other in RFA No.1625 of 2016 decided on 10.11.2021 passed by Hon'ble high court then Appellants rushed to the counsel for the Appellants on 8.12.2021 then he prepared the appeal on 10.12.2021 and the same was filed on 13.12.2021, otherwise delay of 1545 days was not intentional and deliberately but due to the reason mentioned above.”

The learned counsel representing the landowners admits that the applications in all these six cases were represented by Smt. Kamla Sandhu, Advocate, Rohtak. He also admits that various other landowners were also represented by Smt. Kamla Sandhu, Advocate, who had filed appeals before this Court against a common judgment passed by the Reference Court. Thus, the explanation for seeking condonation of delay is apparently false and incorrect. It is not expected that an Advocate would advise different landowners who are identically situated in a different manner. The delay is more than 4 years. Before condoning the delay, the appellants are required to furnish a plausible reason for the condonation of delay. The Court should be liberal and pragmatic, however, the Court is not expected to close its eyes even if the reason for seeking condonation of delay is patently false and is apparent on the face of it.

Keeping in view the aforesaid facts, all the six applications for the condonation of delay are hereby dismissed.

Consequently, the appeals are also dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

November 15th, 2022

**(ANIL KSHETARPAL)
JUDGE**

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Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No