

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

**CM-932-CI-2021 in/and
RFA-291-2021
DECIDED ON:-31.08.2023**

M/s Priority One Realty through its ProprietorAppellant..

vs.

State of Haryana and othersRespondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.S. Nain, Advocate,
for the appellant.

Mr. Shivendra Swaroop, DAG, Haryana,
for respondents-State.

HARKESH MANUJA J.

CM-932-CI-2021

This is an application for condoning the delay of 2185 days in
filing the appeal.

Notice of the application was issued to the respondents and reply
to the application has been filed on behalf of respondent-State.

I have heard learned counsel for the parties and gone through the
paper book.

Concededly, the compensation awarded to the other similarly
situated land owners pertaining to the same acquisition proceedings for
village Mewka, Tehsil and District Gurgaon has been assessed @
Rs.2,15,95,168/- per acre, in view of the judgment dated 05.09.2017 passed
in Civil Appeal No.(s)11913-11945 of 2017, titled as "*State of Haryana*

and another etc. vs. Pushpendra Kumar and ors. etc."

Based thereupon, applying the principle of parity, the land owner/applicant being similarly situated, is entitled for grant of similar amount of compensation, however, without any payment of interest for the period he failed to approach this Court after the decision in the reference Court. In this regard reliance can be placed upon the decision of Hon'ble Supreme Court in case of **Ningappa Thotappa Angadi (Dead) through LR's Vs. Special Land Acquisition Officer and Another, 2020 (19) SCC 599.**

In view of the discussion made hereinabove, as well upon going through the contents of the application, prayer is allowed and delay of 2185 days in filing the appeal is hereby condoned.

Main Appeal

1. In the present case, land owned by the appellant, situated in the revenue estate of village Mewka, Tehsil and District Gurgaon, was acquired vide notifications dated 11.02.2010 and 19.02.2010, issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act"), for the public purpose namely for the development and utilization for sector roads for Sectors 81 to 95 at Gurgaon. Vide award No.3 dated 14.06.2010, the Land Acquisition Collector, fixed the market value of the acquired land situated in village Mewka at the rate of Rs.60,00,000/- per acre, besides other statutory benefits.
2. Aggrieved thereof, the appellant preferred reference under Section 18 of the 1894 Act, seeking enhancement of compensation, which was finally determined by reference Court vide judgment dated 23.12.2013

by fixing the market value of the acquired land situated at Village Mewka at the rate of Rs.1,23,95,226/- per acre, besides granting other statutory benefits.

3. Aggrieved thereof, some of the other landowners approached this Court by way of RFA-5316-2014 and other connected matters, which were decided vide judgment dated 27.05.2016 passed in case **"Pushpender Kumar and others vs. State of Haryana and another"** and the market value was assessed @ Rs.2,54,06,080/- per acre.

4. Dissatisfied with the aforesaid judgment dated 27.05.2016, respondent-State as well as landowners filed separate SLPs before the Hon'ble Supreme Court of India. In the said SLP, the Hon'ble Supreme Court modified the determination made by the High Court by applying 15% deduction towards development.

5. Learned counsel for the appellant submits that the matter in issue is squarely covered by the decision rendered by Hon'ble the Supreme Court in Civil Appeal Nos.11913-11945 of 2017, titled as **"State of Haryana and another vs. Pushpendra Kumar and others"** along with connected matters, decided on 05.09.2017. Para 10 thereof is relevant, which reads as under:-

"10. In our opinion, the deduction of 15% towards development would have been sufficient, which ought to have been made in the instant cases, in the peculiar facts of the case, considering the potentiality of the area in question and the development which has taken place all around. This order not to be treated as a precedent in any other case. Thus, we modify the determination made by the High Court to the above extent only. Let deduction be made accordingly."

6. Learned counsel for the respondents is not in a position to dispute the aforesaid facts.
7. Accordingly, the present appeal is disposed of in terms of the said decision dated 05.09.2017 and the appellant is held entitled for modified amount of compensation, which comes to Rs.2,15,95,168/- per acre along with all statutory benefits and interest available under the amended Land Acquisition Act, 1994. However, the appellant shall not be entitled to interest on the enhanced compensation for the period of delay in filing the appeal.
8. Pending application(s), if any, stand(s), disposed of.

31.08.2023
sonika

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No