

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

**CM-2252-CI-2022 in/and
RFA-956-2022
DECIDED ON:-29.09.2023**

Satvinder Kumar

....Appellant..

VS.

State of Haryana and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sushil K. Sharma, Advocate,
for the appellant.

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

HARKESH MANUJA J.

CM-2252-CI-2022

This is an application for condoning the delay of 2637 days in filing the appeal.

Upon notice, learned State counsel has filed reply to the application in Court today and same is taken on record.

While referring to the contents of para 8 of the reply, learned State counsel submits that computation of delay has wrongly been made by the applicant-appellant as period of Covid Pandemic has not been included in the period of delay, which actually comes to 3358 days. Relevant extract from para 8 of the reply filed on behalf of the respondent-State is reproduced hereunder for reference:-

“8. xxxx. *It is further submitted that the*

computation of delay has also been wrongly made as the appellants cannot take the benefits of the period of COVID-19 pandemic as the reference in case of applicant was decided by Ld. ADJ on 14.12.2012 and the limitation in filing the appeal had expired much before the onset of the COVID-19 pandemic in March, 2020.”

Having heard learned counsel for the parties and gone through the contents of application duly supported by an affidavit as well as reply, it transpires that though in the application filed at the instance of applicant-landowner, it has been mentioned that there is delay of 2637 days in filing the appeal, however, as rightly pointed out by learned State counsel, in fact, the delay is 3358 days in filing the appeal.

Concededly, the other similarly situated landowners pertaining to the same acquisition proceedings have already been held entitled for the compensation @ **Rs. 498/- per square yard (Rs.24,10,320/- per acre)** along with all statutory benefits, while for the land of Bhainsa Tibba which falls on the other side of the railway line, towards Mani Majra and Village Kishangarh of Chandigarh, the market value has been fixed @ **Rs. 26,99,558/- per acre (Rs. 558/- per square yard)** along with all statutory benefits, in view of the decision dated 10.08.2020 passed by this Court in application bearing **CM No. 2247-CI of 2020 in RFA No. 1638 of 2019, titled “Fazal Mohd. (deceased) through his LRs & others Versus State of Haryana & another”**) which was moved for correction of clerical and arithmetical mistakes in the main judgment dated 27.05.2020 rendered in **RFA No. 1817 of 2019, titled “The Akash Cooperative Group Housing Society Ltd.-II Versus State of Haryana and others”**.

Based thereupon, applying the principle of parity, besides awarding just and fair compensation and relying upon the decision of Hon'ble Supreme Court in case of "***Ningappa Thotappa Angadi (Dead) through LRs Versus Special Land Acquisition Officer and Another***", 2020 (19) SCC 599 as well as in view of the contents of application, the same is allowed and delay of 3358 days in filing the appeal, is hereby condoned.

Main Appeal

1. The appellant/landowner, by instituting the present appeal preferred under Section 54 of the Land Acquisition Act, 1894 (for short "the Act"), seeks modification of the award dated 12.03.2013 passed by learned Additional District Judge, Panchkula (hereinafter to be referred as "Reference Court") for enhancement of compensation amount.
2. In pursuance of Haryana Govt. Notification under Section 4 of the Act issued on 16.03.1999, followed by Notification dated 15.03.2000 under Section 6 thereof, the land of appellant, situated in the revenue estate of Village Bhainsa Tibba, Tehsil & District Panchkula, was acquired for the public purposes, namely, for the development and utilization of residential and commercial area in Urban Estate, Panchkula under the Haryana Urban Development Authority Act, 1977.
3. It is contended by learned counsel for the appellant that present appeal is squarely covered with the judgment dated 27.05.2020 rendered in ***RFA No. 1817 of 2019***, titled "***The Akash Cooperative Group Housing Society Ltd.-II Versus State of Haryana and others***" and subsequent correction order dated 10.08.2020 passed by Coordinate Bench in application bearing ***CM No. 2247-CI of 2020 in RFA No. 1638 of 2019***,

titled “Fazal Mohd. (deceased) through his LRs & others Versus State of Haryana & another”.

4. Learned State Counsel is not in a position to controvert the afore-stated factual aspect regarding determination of market value qua the same acquisition proceedings vide judgment dated 27.05.2020 passed in case of *The Akash Cooperative Group Housing Society Ltd.-II (supra)* as well as correction order dated 10.08.2020 passed in *Fazal Mohd.’s case (supra)*.

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

6. From the records, it is apparent that the present appeal is squarely covered with the judgment dated 27.05.2020 passed in case of *The Akash Cooperative Group Housing Society Ltd.-II (supra)* as well as correction order dated 10.08.2020 passed in *Fazal Mohd.’s case (supra)*, which is arising out of the same acquisition / Notification dated 16.03.1999 covering the same revenue estate, whereby the landowners have been held entitled for the compensation @ Rs. 498/- per square yard (Rs. 24,10,320/- per acre) along with all statutory benefits, while, for the land of Bhainsa Tibba which falls on the other side of the railway line, towards Mani Majra and Village Kishangarh of Chandigarh, the market value was fixed @ Rs. 26,99,558/- per acre (Rs. 558/- per square yard) along with all statutory benefits. For reference, the relevant para of order dated 10.08.2020 (*supra*) passed in *Fazal Mohd.’s case (supra)* reads as under:-

“ xxxx

123(ii). For the notification dated 16.03.1999, the market value is fixed @ Rs.498/- per sq.yard (Rs.24,10,320/- per

*acre) along with all statutory benefits. However, for the land of Bhainsa Tibba which falls on the other side of the railway line, towards Mani Majra and Village Kishangarh of Chandigarh, the market value is fixed @ **Rs.26,99,558/- per acre (Rs.558/- per sq.yard)** along with all statutory benefits by only allowing the appeals of the concerned set of landowners. The appeals filed by the State are accordingly, partly allowed and those of the other landowners are dismissed.”*

7. Based upon the above, applying the principle of parity, besides award of just and fair compensation, the landowner/appellant being similarly situated is held entitled for grant of similar amount of compensation as has been awarded to other landowners vide order dated 10.08.2020 passed in **Fazal Mohd.’s case (supra)** alongwith all other statutory benefits and interest thereupon as provided under the Act, except payment of interest for the period the appellant did not approach this Court after passing of Reference Court’s Award.

8. Disposed of in the above terms.

9. Pending application(s), if any, shall stand(s) disposed of.

29.09.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No