

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

(275)

RFA-585-2021 (O&M)
Date of Decision: 25.07.2023

Shiv Kumar

...Appellant

Versus

State of Haryana and Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Lajpat Raj Sharma, Advocate, for the appellant

Mr. Shivendra Swaroop, DAG, Haryana.

HARKESH MANUJA, J.(ORAL)**CM-1686-CI-2021**

1. This is an application for condoning the delay of 2189 days in filing the appeal impugning the Award dated 17.12.2013 passed by the reference Court, Jind. Notice of the application was issued to the respondents wherein reply has also been filed on behalf of respondent No.3.

2. Learned counsel for the applicant/appellant submits that the Award of the reference Court was passed on 17.12.2013 and thereafter, applicant/appellant was under the impression that his appeal was filed with the appeal of other land owners before this Court but on inquiry, it was found otherwise. Immediately, thereafter, he collected copies of judgment passed by the Hon'ble High Court as well as Hon'ble Supreme Court of India and engaged the counsel for filing the appeal against the Award dated 17.12.2013 and due to the aforesaid reasons, delay of 2189 days has occurred in filing the present appeal which is neither intentional nor *mala fide*.

3. I have heard learned counsel for the parties and have gone through the contents of the application.

4. As discussed above, the non-filing of appeal at the instance of applicant was on account of *bona fide* as his case was not filed due to miscommunication. The compensation pertaining to the same acquisition already stands enhanced by this Court vide judgment dated 22.12.2015 rendered in RFA No.1515 of 2014 and other connected matters, wherein the assessment as regards the land abutting the road upto the depth of 2 acres was made @ Rs.33,00,000/- per acre but the compensation qua the land situated beyond 2 acres was assessed at Rs.24,75,000/- per acre. Further in the appeals preferred against the decision of this Court, the Hon'ble Supreme Court vide its decision in the case of **Bijender and others Vs. State of Haryana and another** passed in **Civil Appeal No.2846 of 2017**, enhanced the compensation regarding the land upto the depth of 2 acres from the main road to Rs.45,00,000/- per acre and the land situated beyond 2 acres was assessed @ Rs.35,00,000/- per acre. In view thereof, relying upon the law laid down by Hon'ble Supreme Court in case of **Ningappa Thotappa Angadi (Dead) through LRs. Vs. Special Land Acquisition Officer and Another, 2020(19) SCC 599**, the applicant deserves the similar amount of compensation on the principal of parity as well as of fair and just compensation, however, they shall not be entitled to seek interest for the period for which they did not approach this Court.

5. Thus, in view of the above, application is allowed and delay of 2189 days in filing the appeal is hereby condoned.

Main Appeal

1. In the present case, land owned by the appellants situated in the revenue estate of village Khera Khemawati, Tehsil Safidon, District Jind, was acquired vide notification No.LAC(H)-2007/NTLA/376 dated 23.08.2007, issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"), and followed by notification No.LAC(H)-2008/NTLA/423

dated 21.08.2008 under Section 6 thereof, for the purpose of development and utilization of Commercial and Residential Sectors 7, 8 and 9 in Safidon, Teshil Safidon, District Jind. Market value was assessed by passing Award under Section 11 of the Act.

2. Aggrieved thereof, the appellants preferred reference under Section 18 of the Act, which came to be dismissed vide order dated 17.12.2013, passed by the Court of learned Additional District Judge, Jind. Impugning the same, the appellants preferred the present appeal.

3. Learned counsel for the parties are *ad idem* that the matters pertaining to the same acquisition/notification covering the same revenue estate i.e. village Khera Khemawati, Tehsil Safidon, District Jind, filed at the instance of few other land-owners came up before this Court which was disposed of vide judgment dated 22.12.2015 in **RFA No.1515 of 2014 titled Harijan Co-operative Society Ltd. Vs. State of Haryana and another**, whereby this Court assessed the amount of market value as regards the land abutting the road upto the depth of 2 acres @ Rs.33,00,000/- per acre but the compensation qua the land situated beyond 2 acres was enhanced to Rs.24,75,000/- per acre. Further, in the appeals preferred against the decision of this Court, the Supreme Court vide its decision in the case of **Bijender and others Vs. State of Haryana and another** passed in **Civil Appeal No.2846 of 2017**, enhanced the compensation regarding the land upto the depth of 2 acres from the main road to Rs.45,00,000/- per acre and the land situated beyond 2 acres was assessed @ Rs.35,00,000/- per acre. The relevant portion of the same is reproduced hereunder:

62.....Taking into consideration all the relevant factors emerging from the evidence and the findings of the Courts below on the issues such as the location of the acquired land, its surroundings, nature, potentiality, rates of small plots, the

purpose of acquisition, development cost needed, non availability of the sale deeds for large areas sold in acres, etc., we are of the considered opinion that just, fair and proper market value of the acquired land in question on the date of issuance of Section 4 notification is determined at Rs.45,00,000/- (Forty Five Lacs) per acre in place of Rs.33,00,000/-(Thirty Three Lacs) per acre for the lands described in detail in column 2 of the Award of the Collector dated 19.08.2010 (Annexure P-3) at page 32 of the SLP paper book of C.A.No. 2846/2017 and Rs.35,00,000/- (Thirty Five Lacs) per acre in place of Rs.24,75,000/- (Twenty Four Lacs Seventy Five Thousand) per acre for lands described in detail incolumn 1 of the said Award. In other words, the appellants are held entitled to receive compensation for the acquired land as described hereunder:

<i>Sr. No.</i>	<i>Class of Land</i>	<i>Awarded Amount</i>
<i>1.</i>	<i>Nehri, Chahi</i>	<i>Rs.35 Lacs</i>
<i>2.</i>	<i>To the depth of 2 acres from Safidon-Jind Road & Safidon Bye Pass Road and Gair-mumkin land</i>	<i>Rs.45 Lacs</i>

63) In addition to the aforesaid, the appellants are also held entitled to statutory compensation as provided in the Act and which the Courts below had already awarded to the appellants. We uphold the Award of such compensation. The two rates which we have determined above would apply to entire acquired land of all the appellants.”

Based thereupon, applying the principle of parity, the land owners/applicants being similarly situated are held entitled for grant of similar amount of compensation as has been awarded by the Hon’ble Supreme Court, in case of **Bijender and others (supra)**, besides all other statutory benefit and interest thereupon as provided under the Land Acquisition Act, 1894, except interest for the period the appellants did not approach this Court after passing of reference Court award.

4. In view of the aforesaid discussion, the controversy being squarely covered with the aforesaid judgment passed in the case of **Bijender and others (supra)**, therefore, the present appeal is disposed of in the same terms as based on the agreed stand taken by both sides.

(HARKESH MANUJA)
JUDGE

25.07.2023
anil

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