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

**RFA No. 2644 of 2019 (O&M)
Date of decision: 06.07.2023**

Dharampal

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Parkash Chahar, Advocate
for the appellant.

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana

HARKESH MANUJA, J. (ORAL)

CM-6275-CI-2019

Application is **allowed**, as prayed for, subject to all just exceptions. Exemption from filing the certified / true copy of Award dated 29.01.2015 as well as short order dated 29.01.2015, is granted.

CM-6274-CI-2019

Prayer in the present application under Section 5 of Limitation Act, is for condonation of delay of 1518 days in filing the appeal.

Reply to the application stands filed.

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

A perusal of the application shows that the applicant being a poor and rustic villager, relied upon his co-villagers for the purpose of challenging the Award dated 29.01.2015 passed by learned Reference Court, who even assured him having filed separate appeal on his behalf. However, later on, it was found that no appeal was filed on behalf of the applicant, thereby causing the aforesaid delay in filing the appeal, which is apparently unintentional and *bona fide*. Hence, the delay in filing the appeal is liable to be condoned.

In view of the above, present application is **allowed**.
The delay of 1518 days in filing the appeal is condoned.

MAIN APPEAL

[1] Present appeal has been preferred under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) to modify the impugned award dated 29.01.2015 passed by learned Additional District Judge, Jhajjar (hereinafter to be referred as “Reference Court”) for enhancement of the compensation.

[2] The land owned by the applicant alongwith other co-villagers situated in Village Jhajjar, Hadbast No. 100, Tehsil & District Jhajjar was acquired vide Notification dated 30.12.2002 issued under Section 4 of the Act, which was followed by a declaration dated 08.12.2003 under Section 6 thereof. The public purpose for acquisition of land was stated to be development and utilization of land as residential and commercial for Sector-6, Jhajjar under the Haryana Urban

Development Authority Act, 1997.

[3] The Land Acquisition Collector, Urban Estates, Faridabad (for short "LAC"), vide Award No. 5 dated 05.12.2005, assessed the market value of acquired land @ Rs. 12,50,000/- per acre.

[4] Dissatisfied with the aforesaid award, landowners / interested persons filed objections under Section 18 of the Act. Resultantly, the dispute was referred to the Reference Court for determination of the market value of the acquired land.

[5] Learned Reference Court, while passing the impugned award dated 29.01.2015, accepted the reference petition and enhanced compensation @ Rs. 13,78,574/- per acre alongwith other statutory benefits. The operative para-23 of impugned award is re-produced as under:-

" In view of above discussion and reasons as well as findings on the issues No. 1 & 2, the market value of the acquired land in all these references is determined at the rate of Rs. 13,78,574/- (Rs. Thirteen lacs Seventy Eight Thousand Five Hundred and Seventy four only) per acre. As petitioners have already obtained compensation @ 12.50 lacs per acre, they are now entitled to additional compensation of Rs. 1,28,574/- along 30% CAC, which comes to Rs. 38,572/-. After adding both these factors total additional compensation comes to 167,146/- per acre. Petitioners are also entitled to interest @ 15% per annum from 5.12.2005 on the total additional compensation, till realization. No. other additional benefit needs to be given, as LAC has already awarded interest @ 12% per annum u/s 23(1-A) from 30.12.2002. Accordingly, all the references are hereby allowed partly with costs. However, it is made clear that petitioners may

file fresh petition with respect to compensation passed in supplementary award for building and trees.”

[6] A perusal of paragraph extracted hereinabove shows that though the Reference Court enhanced the market value of acquired land from Rs. 12.50 lacs per acre to Rs. 13,78,574/-; however, declined the additional benefits, as prescribed under Section 23 (1-A) of the Act w.e.f. 30.12.2002.

[7] Learned counsel for the parties are *ad idem* that as regards the assessment of market value as well as the grant of statutory benefits especially under Section 23 (1-A) of the Act, the present appeal is squarely covered with the judgment dated 27.11.2015 passed in RFA No. 3267 of 2015, titled “***Ram Kanwar Versus State of Haryana and others***”, arising out of the same notification, vide which the land of appellant had been acquired.

[8] Learned State Counsel opposes the benefit of interest (qua the relief under Section 23 (1-A) of the Act) for the period for which the land owner(s) did not approach this Court.

[9] I have heard learned State Counsel and unable to accept the submission in this regard, as the benefit under Section 23 (1-A) of the Act is a statutory benefit, which the Reference Court was required to award in favour of the landowners and the same was not within the scope of discretion of the Reference Court and thus, the land owner, i.e. the appellant, cannot be put to disadvantageous position in this

regard.

[10] In view of the discussion made hereinabove plea raised by the State Counsel with regard to depriving the landowner qua the interest part, is specifically declined.

[11] Consequently, the present appeal is **disposed off** in terms of order dated 27.11.2015 passed in ***Ram Kanwar's case (supra)***.

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

July 06, 2023

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**(HARKESH MANUJA)
JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No