

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

(237)

**RFA-1854-2018 (O&M)
Date of Decision: 01.09.2023**

Bahadur Singh @ Sher Bahadur Singh

...Appellant

Versus

State of Haryana through Collector Gurgaon and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gaurav Aggarwal, Advocate, for the appellant.

Mr. Shivendra Swaroop, DAG, Haryana.

Mr. P. S. Saini, Advocate, for respondent-HSIIDC.

HARKESH MANUJA, J.(ORAL)**CM-4208-CI-2018**

1. This is an application for condoning the delay of 1804 days in filing the present appeal.

2. Notice of the application was issued to the respondents who have not filed any reply.

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

4. Concededly, the other similarly situated land owners pertaining to the same acquisition proceedings have already been held entitled for enhanced amount of compensation pertaining to village Dhana, Tehsil and District Gurgaon @ Rs.47,10,500/- per acre alongwith all statutory benefits, in view of the judgment dated 08.04.2021 passed by Hon'ble Supreme Court in **Civil Appeal No(s). 1330-1332 of 2021 @ Special Leave Petition (Civil) No.28052-28054 of 2018** titled as **M/s Acquainted Realtors LLP etc. etc.**

Vs. State of Haryana and others.

5. Based thereupon, applying the principle of parity, the land

owners/applicants being similarly situated, are entitled for grant of similar amount of compensation, however, except the payment of interest for the period they failed to approach this Court after the decision of 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 LRs Vs. Special Land Acquisition Officer and Another, 2020 (19) SCC 599”**. Accordingly, in view of the averments made in the application besides the law laid down in the aforementioned judgment, the same is allowed and delay of 1804 days in filing of the appeal is hereby condoned.

Main Appeal

1. In the present case, land owned by the appellant situated in the aforesaid village was sought to be acquired vide Notification dated 27.09.2005 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”), for the purpose of setting up Industrial Model Township, Manesar (Gurgaon) and for completing the infrastructural facilities and other public utilities such as roads, water supply, sewerage, electrification, drainage, transport hub and communication etc. Notification under Section 6 of the Act was issued on 02.06.2006, followed by an award dated 24.01.2007 in exercise of powers conferred under Sections 11 of the Act.

2. Aggrieved thereof, the appellant preferred reference under Sections 18 & 30 of the Act, which came to be dismissed vide award dated 08.09.2012 by the Court of learned Additional District Judge, Gurgaon, on account of a preliminary objection taken by respondent No.4 that petitioner has entered into an agreement to sell dated 19.05.2006 with it. However, in connected matters pertaining to the same notification issued under Section 4 of the Act, reference Court vide Award dated 04.09.2012 assessed compensation to the tune of Rs.46,07,890/- per acre irrespective of the nature

of the land along with all statutory benefits on enhanced amount of compensation as per Sections 23(1-A), 23(2) and 28 of the Act.

3. Impugning the same, the appellant has preferred the present appeal.

4. Learned counsel for the appellant submits that the matter pertaining to the same acquisition/notification covering the same revenue estate i.e. village Dhana, Tehsil and District Gurgaon, filed at the instance of few other land-owners came up before this Court & was disposed of vide judgment dated 01.06.2018 passed in **RFA No.384 of 2013 titled Tej Singh Vs. State of Haryana and others**. Still dissatisfied, the judgment dated 01.06.2018 was assailed by way of **Civil Appeal No(s). 1330-1332 of 2021 @ Special Leave Petition (Civil) No.28052-28054 of 2018 titled as M/s Acquainted Realtors LLP etc. etc. Vs. State of Haryana and others**, which came up for hearing before Hon'ble Supreme Court and the same was decided vide judgment dated 08.04.2021, whereby, the landowners were held entitled for the enhanced amount of compensation @ Rs.47,10,500/- per acre alongwith all statutory benefits and interests as available under the relevant provisions of the Act with the following observation:-

*“15 In the totality of circumstances, in our view, the landholders must be held entitled to 8% flat increase over the market value assessed in **HSI IDC Vs. Roshan Lal and Others**. in respect of lands from villages which were found to be comparable. The landholders must therefore get enhancement to the tune of 8% over Rs.43,61,400/- per acre that is to say Rs.47,10,312/- per acre(rounded of to Rs.47,10,500/- per acre). Needless to say that they shall also be entitled to all the statutory benefits.”*

On the other hand, learned counsel representing respondents has not been able to controvert the abovementioned factual position.

5. Based upon the above, applying the principle of parity, besides, just and fair compensation, the landowner/applicant being similarly situated is held entitled for grant of similar amount of compensation as has been awarded by Hon’ble Supreme Court in the aforesaid case i.e. **M/s Acquainted Realtors’ case (supra)** besides all other statutory benefits available to them under the relevant provisions of the Act except the interest for the period the appellant did not approach this Court after passing of award by the Reference Court.

6. As regards the apportionment of compensation is concerned, it has been pointed out that respondent No.4, who has chosen not to appear in the present appeal despite service, was basing his claim on an agreement to sell dated 19.05.2006 having paid a sum of Rs.2.40 Lakhs as earnest money in favour of the appellant/landowner. As per learned counsel representing the appellant aforesaid amount is laying deposited with the Reference Court and the appellant shall not claim any right or interest over the said amount which may be claimed by respondent No.4 against refund of earnest money especially in view of the fact that the agreement to sell was executed on 19.05.2006 which is post 27.09.2005 i.e. the date of notification under Section 4 read with Section 17(2)(c) of the Act.

7. The present appeal is disposed of in the above terms.

8. Pending applications, if any, shall remain disposed of.

(HARKESH MANUJA)
JUDGE

01.09.2023
anil

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