

**231/4 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CM-1567-CI-2023 in CM- 251-CI-2020 in/and RFA-125-2020
Date of Decision: July 04, 2023

HARSH KUMAR AND ANOTHER Appellants
Versus
UNION OF INDIA AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Manhas, Advocate and Ms. Saruti Sandal,
Advocate for Mr. Abhimanyu Singh, Advocate for
Appellants.

Mr. Sumit Kumar Sharma, Sr. Panel Counsel
for Union of India.

HARKESH MANUJA, J. (ORAL)

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Prayer made in the application is for seeking
condonation of delay of 4134 days in filing the Regular First Appeal.

Briefly stating, facts of the case are that the land owned
by the predecessors-in-interest of the applicants, situated in village
Nagrota, Tehsil Pathankot was acquired vide notification dated
22.02.1991 for defence purposes. Award under Section 11 was
announced by the Collector on 15.03.1993. Aggrieved thereof, the
predecessors-in-interest of applicants along with other land owners
preferred reference under Section 18 of Land Acquisition Act, 1894
which was partly allowed vide award dated 17.07.2007. Though, the
other similarly situated land owners pertaining to the same
acquisition proceedings as well as the Union of India impugned the
award dated 17.07.2007 by filing Regular First Appeal, somehow no

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challenge to said award was made at the instance of predecessors-in-interest of the applicants. Vide judgment dated 17.02.2016, the appeals filed by the land owners were partly allowed whereas the appeals preferred by Union of India were declined thereby determining a uniform rate of compensation at the rate of Rs.2300/- per marla, besides availing all other statutory benefits in favour of land owners. The present application has been filed seeking condonation of delay of 4134 days while filing the present appeal wherein the award dated 17.07.2007 passed in reference No.1191 of 2001 has been now challenged. Notice of application was issued to the respondents who have filed their objections.

I have heard learned counsel for the parties. Considering the fact that the amount of compensation stands enhanced by this Court vide judgment dated 17.02.2016, in case of other similarly situated land owners pertaining to same acquisition proceedings and thus considering the principles of parity, it would be unjustified in case the present appeal filed at the instance of land owners is declined on the ground of delay in filing the same, as it would also violate the principles of equity as well as their claim of fair and just compensation. My aforesaid view is also derived from a judgment passed by Hon'ble the Apex Court in case of **“Ningappa Thotappa Angadi vs. Special Land Acquisition Office reported as 2020(19) SCC 599.”** Paragraphs 9-11 thereof are reproduced hereunder:-

“9. The afore-cited view has been consistently followed by this Court in a series of cases before and after the decision in Dhiraj Singh's (dead) case (supra). In Imrat Lal & Ors. v. Land Acquisition Collector & Ors., 2014 14 SCC 133, it was

observed that the delay in filing the Special Leave Petition cannot be the reason to deny just and fair compensation to the claimants. This Court observed that a liberal approach should be adopted in such like matters. In Huchanagouda v. Assistant Commissioner and Land Acquisition Officer, 2019 SCC Online SC 990 also this Court condoned the delay and restored parity in the matter of grant of compensation though with a condition 'that for the period of delay in filing and in refiling the Special Leave Petitions, the appellant-claimant(s) shall not be entitled to any interest on the enhanced compensation and statutory amount.'

10. It is undeniable that this Court vide judgment dated November 11, 2016 passed in C.A. No. 2927/2010 (Ningappa Thotappa Angadi v. Special Land Acquisition Officer & Anr.) has set aside the order of the High Court and restored the compensation as was awarded by the Reference Court. In the cited case, this Court held as follows:

'We have heard the learned counsel for the parties to some length and carefully perused the material on record. We are of the considered opinion that the impugned judgment and order of the High Court deserves to be set aside and judgment and order passed by the Reference Court restored. We say so because, this Court has in a similar appeal directed against the very same order set aside the impugned judgment and restored the enhancement granted by the Reference Court. We see no reason to take a different view in the present case. We, accordingly, allow this appeal and while setting aside the impugned judgment insofar as the same relates to the appellant, restore the judgment and order passed by the Reference Court. The parties shall, however, bear their own costs.'

11. The appellant(s) are also similarly placed claimants. They are, thus, entitled to seek parity and claim the same amount of fair and just compensation as has been awarded to other land owners. The appellant(s) are, however, not entitled to seek interest for the period for which they did not approach this Court."

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In view of the discussions made hereinabove, the delay of 4134 days in filing the appeal is hereby condoned, however, the appellants shall not be entitled to seek interest for the period for which they did not approach this Court.

MAIN CASE

Both the counsels are ad idem that the issue involved in the present appeal which relates to acquisition pertaining to notification dated 22.02.1991 is squarely covered by decision dated 17.02.2016 rendered by this Court in **RFA- 2902-1999** and other connected matters titled as “**Union of India and Anr. Vs. Major Pritam Singh and Anr.**”, wherein also the land situated in village Nagrota, District Pathankot was acquired for defence purposes and the amount of compensation was enhanced uniformly at the rate of 2300 per marla from the date of notification under Section 4 of the Act besides grant of all other statutory benefits available to the land owners.

The operative portion thereof is reproduced hereunder:-

“The appeal as well as cross objections filed by the land owners deserve to be partly accepted and the same are allowed to the extent indicated above. The land owners are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2300/- per marla from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled to all the statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the observations made above, all the aforesaid appeals stand disposed of, in the aforesaid terms, however, with no order as to costs.”

In view of the discussions made hereinabove, the present appeal stands allowed in terms of decision dated 17.02.2016 passed in RFA No.2902 of 1999 and other connected matters.

It is however made clear that the appellants shall not be entitled to seek interest for the period for which they did not approach this Court.

04.07.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>