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

(325)

RFA-927-2023

Date of Decision: 05.08.2024

Sukhjit Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sunny K. Singla, Advocate, for the appellant.

Mr. Shivender Swaroop, DAG, Haryana.

HARKESH MANUJA, J.(ORAL)**CM-2850-51-CI-2023**

1. These applications have been filed for condoning the delay of 273 days in re-filing and 280 days in filing the present appeal.
2. As per the averments made in the application, the delay in filing the appeal was not intentional as the same was filed on 15.03.2021 but time and again certain objections were raised by the Registry of this Court and finally after removal of all the objections, delay of 273 days occurred in re-filing the present appeal. Moreover, appellant-Sukhjit Singh son or Surjit Singh is residing abroad and the present appeal was filed through Amnandeep Singh Dhillon son of Jagtar Singh and there being some communication gap between the both especially due to Covid-19 pandemic, some quarries could not be cleared in time and for this reason 280 days delay occurred in filing the appeal.
3. Nonetheless, the other similarly situated land owners pertaining to the same acquisition proceedings have already been held entitled for the enhanced amount of compensation pertaining to Village Malakpur, Sub

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Tehsil Ahmedgarh, Tehsil Malerkotla, District Sangrur (Punjab) vide judgment dated 11.03.2019.

4. Based thereupon, besides applying the principle of parity, the land owner/applicant being similarly situated is entitled for grant of similar amount of compensation, however, without any payment of interest for the period he failed to approach this Court after the decision in 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.***

5. In view of the discussion made hereinabove, the applications are allowed and delay of 273 days in re-filing and 280 days in filing the present appeal is hereby condoned.

Main Case

1. By way of the present appeal, challenge has been made to an award dated 11.03.2019 passed by the reference Court, whereby the reference petition filed under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') at the instance of the appellant-landowner stands dismissed being barred by limitation.

2. Briefly stating, the land owned by the appellant, situated within the revenue estate of village Malakpur, Sub Tehsil Ahmedgarh, Tehsil Malerkotla, District Sangrur came to be acquired vide notifications dated 29.03.2011 and 27.09.2011 issued under Sections 4 and 6 of the Land Acquisition Act respectively. The acquisition proceedings were carried out for the purpose of new grain market, Ahmedgarh. The award under Section 11 of the Land Acquisition Act was passed on 05.03.2013. Aggrieved of the determination by the collector, the appellant-landowner filed reference

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petition under Section 18 of the Act on 21.07.2015, which came to be dismissed by the Reference Court vide award dated 11.03.2019 being barred by limitation having been filed after two years of passing of the award by the Collector.

3. Impugning the aforementioned award passed by the Reference Court, learned counsel for the appellant submits that the findings recorded against the appellant on the issue of limitation were wholly perverse as the Reference Court failed to appreciate the pleadings of the parties. Pointing out to para No.3 of the reference petition, learned counsel for the appellant submits that sufficient reasons were mentioned for the purposes of filing reference petition within six weeks from the date of receipt of cheques dated 16.06.2015 towards the compensation awarded by the Collector with further averments that neither any notice of award was ever served upon the appellant, nor he was present at the time of passing of the award. He further points out that the aforesaid pleadings as set up in para No.3 of the reference petition were never denied in detail by the respondents qua the receipt of compensation awarded by the appellant through cheques dated 16.06.2015 and thus, the reference petition filed at the instance of the appellant-landowner was required to be treated within limitation.

4. On the other hand, learned State counsel submits that the appellant-landowner failed to prove the factum of receipt of compensation vide cheques dated 16.06.2015 and in the absence thereof, the impugned award passed by the Reference Court warrants no interference, the reference petition being barred by limitation.

5. I have heard learned counsel for the parties and gone through the paper book as well as records which have been provided to this Court by the



respective counsel and I find substance in the arguments made on behalf of the learned counsel for the appellant.

6. A perusal of reference petition shows that a specific averment has been made in para No.3 thereof that no notice under Section 12(2) of the Act was ever served upon the appellant-landowner by the respondents in pursuance to the award dated 05.03.2013, besides that it has also been averred that the reference petition was filed within six weeks from the receipt of compensation by the appellant-landowner through cheques dated 16.06.2015. To the contrary, in the written statement, no specific denial was made by the respondents regarding receipt of compensation by the appellant-landowner through cheques dated 16.06.2015 and rather a plea was raised that some of the landowners were present at the time of passing of the award, though without mentioning details of their names.

7. In the absence of there being any specific denial about the factum of receipt of compensation by the appellant-landowner vide cheques dated 16.06.2015, the Reference Court went wrong while non-suiting the appellant-landowner by holding that the reference petition was barred by limitation, solely for the reason that the cheques dated 16.06.2015 were not proved on record. In the absence of there being any documentary evidence produced on record from the side of respondents as regards service of notice of award upon the appellant-landowner as contemplated under Section 12(2) of the Act and they having received the amount of compensation through cheques dated 16.06.2015, reference petition filed at their instance on 27.07.2015 i.e. within a period of six weeks thereafter, could not have been rejected being barred by limitation.

8. In view of the discussions made hereinabove, the impugned award

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dated 11.03.2019 passed by the Reference Court is hereby set aside. Resultantly, this appeal is allowed and the reference petition filed at the instance of the appellant-landowner is held to be within limitation. Accordingly, the matter is ordered to be sent back to the reference Court for its fresh adjudication on merits. Considering the fact that acquisition proceedings pertain to the year 2011, the reference Court is requested to conclude the proceeding within a period of three months.

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

(HARKESH MANUJA)
JUDGE

05.08.2024
anil

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