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RFA No.1168 of 2024 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

159-2

CM No.3746-CI-2025 in/and
RFA No.1168 of 2024 (O&M)
Date of Decision: 27.11.2025

PUSHP LATA GAUTAM

....Appellant

Vs

LAND ACQUISITION COLLECTOR, URBAN ESTATE, HUDA AND ORS.

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Sandeep Sharma, Advocate with
Ms. Gitanjali, Advocate and
Ms. Maninee, Advocate for the appellant.

Mr. Abhinash Jain, D.A.G., Haryana.

*HARKESH MANUJA, J. (Oral)*CM No.3746-CI-2025

Since the main case is already listed today, therefore, the present application is disposed of as infructuous.

CM No.2900-CI of 2024

By way of present application, prayer has been made for condoning the delay of 1811 days in filing the present appeal.

Notice in the application.

Learned State counsel accepts notice on behalf of the respondents does not intend to file reply to the application.

Concededly, the other similarly situated landowners pertaining to the same acquisition proceedings were held entitled for the enhanced amount of compensation pertaining to the land situated in this very revenue estate of Village Choma, Tehsil and District Gurugram, to the tune of Rs.4,78,05,588/- per acre vide decision dated 20.05.2016 passed by this Court in RFA No.4475 of 2012, however in an appeal filed before the Hon'ble Apex Court, deduction of 15% towards

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development cost was made on the aforementioned assessed market value vide order dated 05.09.2017 passed in *Civil Appeal Nos.11814-11864 of 2017 (Arising out of SLP (C) Nos.8024-8074/2017)* titled *'State of Haryana & Others etc. vs. Ram Chander & another etc.'*. Based thereupon and applying the principle of parity, besides grant of just and fair compensation, the landowner/applicant being similarly situated is entitled for grant of similar amount of compensation. In this regard reliance can be placed upon the decision of Hon'ble Supreme Court in case of *"Ningappa Thotappa Angadi (Dead) through LRs Versus Special Land Acquisition Officer and Another", 2020 (19) SCC 599.*

In view of the discussion made hereinabove as well as contents of the application, the prayer is allowed and delay of 1811 days in filing the appeal is hereby condoned.

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1. By way of present appeal, challenge has been laid to the Award dated 28.08.2019 passed by the learned Addl. District Judge, Gurugram (hereinafter to be referred as the 'Reference Court'), whereby Reference Petition filed under Section 18 of the Land Acquisition Act, 1894 (for short 'the 1894 Act') at the instance of the landowner was partly allowed while granting the benefit of enhanced market value @ Rs.4,06,34,749.80 per acre *qua* the acquired land besides award of statutory benefits/interest as provided under the 1894 Act.

2. Briefly stating, in the present case(s), land measuring 114.31 acres, situated within the revenue estate of village Choma, Tehsil and District Gurugram, came to be acquired vide Notifications dated 25.01.2008 and 18.03.2008 issued under Sections 4 & 6 of the 1894 Act respectively for the public purpose namely for development and utilization of land for 150 meters wide periphery road linking Dwarka Township Delhi from Haryana Boundary No.NH-8 near village Kherki Daula at Gurugram, followed by an Award passed by the Land Acquisition Collector (for short 'the LAC') on 23.12.2009 thereby determining the market value of the acquired land @ Rs.60 lac per acre for all types of land. Aggrieved thereof, reference under Section 18 of the 1894 Act was filed which came to be

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decided vide award dated 28.08.2019 by the learned Addl. District Judge, Gurugram. Still aggrieved, the present appeal was preferred.

3. I have heard learned counsel for the parties and gone through the paper book as well as records of the case.

4. It has not been disputed on facts that issue of determination of market value already stands adjudicated upon finally by the Hon'ble Apex Court vide its decision dated 05.09.2017 passed in Civil Appeal Nos.11814-11864 of 2017 (Arising out of SLP (C) Nos.8024-8074/2017) titled 'State of Haryana & Others etc. vs. Ram Chander & another etc.' and the same for the acquired land has been assessed by applying deduction of 15% towards development cost over the market value assessed by this Court @ Rs.4,78,05,588/- per acre which comes to Rs.4,06,34,749.80 per acre. The learned Reference Court has awarded the same benefit, it thus call for no interference.

5. At this stage, it may be noticed here that the learned Reference Court vide its impugned Award has denied the statutory benefits/interest to the appellant-landowner from 23.12.2009 i.e. the date of passing of the Award by the LAC till 22.02.2017 i.e. the date of the filing Reference Petition, however, the same, in the given facts and circumstances of the case is wholly uncalled for, especially when a positive finding of fact has been recorded by the learned Reference Court in paragraph No.39 of its Award that the appellant/landowner was not having any knowledge about the acquisition proceedings and as soon as she got to know about it, the Reference Petition was preferred and thus, it was categorically recorded that the same was not barred by limitation. The said paragraph being relevant is extracted hereunder:-

“39. Therefore, in view of the generous attitude of the Superior Courts of law and keeping in mind that the petitioners are residing outside Gurugram and thus, they had no knowledge of the acquisition proceedings and the present petition has been filed immediately on having attained knowledge and it has been gainfully shown before the court by the petitioners. Thus, it is held that the present petitions are not barred by limitation. Accordingly,

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findings on this issue is returned in favour of the petitioners and against the respondents.”

6. It may also be noticed here that the aforesaid finding has not been assailed by the respondents/State either by way of filing of any appeal or even through cross-objections. Furthermore, it may also be pointed out here that burden to prove the fact that the reference petition preferred at the instance of the landowner was barred by limitation always was upon the respondents/State, however the same was never discharged as no evidence in the form of any notice under Section 12(2) of the 1894 Act ever served upon the appellant/landowner was produced on record so as to attribute her about the factum of knowledge of Award dated 23.12.2009 and its contents. Even payment of compensation was released in favour of the appellant/landowner on 16.05.2017.
7. In such circumstances, once the Reference Petition filed at the instance of the appellant/landowner was held to be within limitation, the learned Reference Court committed illegality while denying her the award of interest for the period from 23.12.2009 i.e. the date of passing of the Award till 22.02.2017 i.e. the date of the filing Reference Petition.
8. Accordingly, in view of aforesaid reasons recorded by this Court, the said finding recorded by the learned Reference Court is hereby set aside. The appellant-landowner is held entitled for the award of all statutory benefits/interest for the period from 23.12.2009 to 22.02.2017 as well over the market value assessed by the Hon’ble Apex Court.
9. Pending application(s), if any, are accordingly disposed of.

November 27, 2025
Atik

(HARKESH MANUJA)
JUDGE

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