

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

RFA-1013-2019 (O&M)

Date of Decision: 30.10.2019

Suresh Kumar

...Appellant

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present:- Mr. Chander Shekhar Singhal, Advocate for
Mr. Vikrant Hooda, Advocate, for the appellants.

Ms. Vibha Tewari, AAG, Haryana.

G. S. SANDHAWALIA, J.(Oral)

[1] The present appeal has been filed along with an application for condoning the delay of 4880 days in filing the appeal against the award of Reference Court, Jhajjar dated 31.01.2005.

[2] In the application, it has been mentioned that the documents had been given for filing the regular first appeal but on enquiry, it has been found that the case had not been filed, and therefore, the appeal had been filed on 10.05.2018.

[3] The notification under Section 4 of the Land Acquisition Act 1894 in question is dated 26.05.1995. Against the said award dated 31.01.2005, this Court in RFA No.5147 of 2017 titled as "Laxmi Narain and another Vs. State of Haryana and others" and other connected cases decided on 03.05.2019 dismissed the applications for condoning the delay vide a detailed order. The reasoning given reads as under:-

"(4) Counsel for the State argued that it is a matter of record that the litigation got finalized before the Apex Court on 17.11.2017 in **Civil Appeal No.19354 of 2017 Rajender & Ors. vs. State of Haryana**. It is only thereafter that the present landowners have

woken up and filed appeals in 2018. RFA No.5147 of 2017 Laxmi Narain & Anr. vs. State of Haryana & Ors. thus was also filed only after this Court had decided **RFA-8-2005 Devinder Singh & Ors. vs. State of Haryana & Ors.** on 31.08.2015.

- (5) In such circumstances it is submitted that there is no plausible explanation given for the delay in filing the appeals.
- (6) Counsel for the appellants, on the other hand submitted that in view of the law laid down in ***Imrat Lal & others Vs. Land Acquisition Collector & others 2015 (2) RCR (Civil) 437*** and ***Dhiraj Singh (deceased) through LRs Vs. Haryana State & others 2015 (2) RCR (Civil) 507***, the delay as such can be condoned.
- (7) In similar circumstances, pertaining to the same acquisition of Jhajjar in **RFA No.780 of 2018 Ved Parkash & Ors. vs. State of Haryana & Anr.** decided on 27.07.2018, this Court had declined to condone the delay of 13 years. The judgment of the Apex Court were duly discussed and the view laid in **Brijesh Kumar & Ors. vs. State of Haryana & Ors. AIR 2014 SC 1612** was followed.
- (8) The sufficient cause as such seems to be apparently missing on the face of the record. The fact remains that in one case even the landowner Shanti has died and the LRs now are trying to agitate the issue which their mother had chosen not to. Similarly, neither any details have been given in the application as to who were the persons to whom the appeals were entrusted for filing and it is apparent that only when the decision has come by this Court in the year 2015 and by the Apex Court in year 2017, the landowners have woken up to take a chance to get the same amount compensation as was granted to the similarly situated persons since the Apex Court

has now granted ₹12 lakhs as uniform compensation for the notification in question.

- (9) The observations made in **Ved Parkash** (supra) are to the following effect:-

*“There is no doubt regarding the said judgments. However, sufficient cause is to be made out in the application and it is their own case that only on account of the enhancement granted in RFA-8-2005 titled Devinder Singh & others Vs. State of Haryana & others, decided on 31.08.2015 (Annexure A-1), they have chosen to approach this Court. Once the application itself does not depict any sufficient cause, then the principles laid down by the Apex Court in the above-said judgments would not be applicable to the facts of the present case. It has, now, been further clarified by the State Counsel also that the said judgment rendered in **Devinder Singh** (supra) would not be applicable, since the notification in the said case is dated 12.05.1995 whereas in the present case, the same is dated 26.05.1995.*

*The last argument which has been raised by counsel for the appellants that connected matters stand admitted and therefore, this Court should allow the application for condonation of delay, is also without any justification. The Apex Court in **Brijesh Kumar & others Vs. State of Haryana & others AIR 2014 SC 1612**, refused to condone the delay of 10 years and approximately 3 months and did not interfere with the orders passed by this Court. The landowners in those cases also had chosen not to file the appeals at the initial state and filed the same after the delayed period.*

Relevant observations read as under:

- 11. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.*
- 12. It is also a well settled principle of law that if some person has taken a relief approaching the Court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person."*

Resultantly, the application for condonation of 4631 days in filing the present appeal is dismissed. Consequently, the main appeal is also dismissed."

(10) Resultantly, keeping in view the above, this Court is loath to condone the delay. Applications are accordingly dismissed and as a corollary thereto, the appeals also stand dismissed."

[4] The above reasoning would also cover the facts of the present case and the award also being the same, the application for condoning the delay of 4880 days stands dismissed, for purposes of

maintaining parity also.

[5] Resultantly, the appeal also stands dismissed.

OCTOBER 30, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No