

(1997) 04 P&H CK 0025

High Court Of Punjab And Haryana At Chandigarh

Case No: Letters Patent Appeal No. 324 of 1996

Rattan Lal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: April 24, 1997

Acts Referred:

- Land Acquisition Act, 1894 - Section 18
- Limitation Act, 1963 - Section 5

Citation: (1998) 118 PLR 283 : (1998) 1 RCR(Civil) 751

Hon'ble Judges: T.H.B. Chalapathi, J; M.S. Liberhan, J

Bench: Division Bench

Advocate: I.K. Mehta and M.S. Kohli, for the Appellant; Harish Rathee, for the Respondent

Final Decision: Allowed

Judgement

T.H.B. Chalapathi, J.

This Letters Patent Appeal is filed against the order of the learned Single Judge dated 29th November, 1994 in Civil Miscellaneous No. 1911-C1 of 1994 in Regular First Appeal No. 1358 of 1994 dismissing the application of the appellants for condonation of delay.

2. The appellants filed Regular First Appeal against the judgment of the Additional District Judge, Gurgaon in L.A.C. No. 97 of 1974 dated 31st July, 1978.

3. There is a delay in filing of the appeal. Therefore, the appellants filed an application to condone the delay in filing the appeal u/s 5 of the Limitation Act. In the application for condonation of delay, the appellants stated that they were advised by their counsel in the District Court that if the amount is enhanced on appeal filed by any of the claimants, the benefit of enhanced compensation will accrue to all the claimants. Therefore, they had not filed the appeal earlier and therefore they prayed that the delay in filing the appeal may be condoned. But

relying on a decision of the Full Bench of this Court in Smt. Tara Wanti v. State of Haryana (1994) 107 P.L.R. 761 (F.B.) the learned Single Judge dismissed the application for condonation of delay.

4. There, is no dispute about the fact that some appeals arising out of the judgment of the learned Additional District Judge, Gurgaon dated 31st July, 1978 in LAC No. 21/71-72 are pending in this Court. There appeals have not been decided as yet. The appellants are not solely relying on the ground for condonation of delay of the pendency of the appeals. Their main grievance is that they have been advised by-their counsel in the District Court that they would also get the same benefit which the appellants in the other appeals would get in the case of their appeals being allowed. This is the ground on which the appellants want condonation of delay in filing the appeal but, not, as already observed, on the basis of the appeals pending in this Court. In fact, the Full Bench of this Court in Smt. Tara Wanti's case (supra) has categorically stated that the application for condonation of delay has to be independently decided though the dismissal of another appeal with respect to the same notification may be a circumstance to be taken note of while deciding such application.

5. In State of Haryana v. Chandra Mani and Ors. JT (1996) 3 371 the Supreme Court held that the expression "sufficient cause"" should, therefore, be considered with pragmatism in justice oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.

6. It is nothing unusual when some other claimants similarly situated as that of these appellants filed appeals and if the counsel advised the appellants that they would get the benefit of the judgment" rendered in the appeals filed by other claimants, it furnishes a sufficient cause to condone the delay in filing the appeal by the present appellants.

7. It is pertinent to note that Section 28-A of the Land Acquisition Act provides as follows:-

"28-A. Re-determination of the amount of compensation on the basis of the award of the Court.-(I) Where in an award under this part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector u/s 11, the persons interested in all the other land covered by the same notification u/s 4, Sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector u/s 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this Sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be

excluded.

(2) The Collector shall, on receipt of an application under Sub-section (1) conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under Sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of Sections 18 to 26 shall, so far as may be, apply to such reference as they apply to a reference u/s 18."

8. Therefore, it can be said that the appellants are under the impression that they need not file a separate appeal because the other owners of the land have already filed appeals in this Court against the same award passed by the Court on a reference u/s 18 of the Land Acquisition Act. In our view, this furnishes sufficient cause to condone the delay.

9. Therefore, the application for condonation of delay is, accordingly allowed. Regular First Appeal No. 1358 of 1994 is directed to be listed before, the learned Single Judge alongwith other appeals for disposal in accordance with law.