

(2014) 08 P&H CK 0279

High Court Of Punjab And Haryana At Chandigarh

Case No: RFA No. 4505 of 2013 (O&M)

Kamla Devi

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Aug. 4, 2014

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 4, 6

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Advocate: Rubi Kumar, Advocate for Vikram Singh, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Rajesh Bindal, J.

By filing the present appeal, the landowners are seeking enhancement of compensation for the acquired land. Along with the appeal, an application seeking condonation of delay of 9,758 days in filing thereof has also been filed.

2. Briefly, the facts are that vide notification dated 4.6.1980 (published in the Haryana Government Gazette dated 4.6.1980), issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act"), the State of Haryana sought to acquire land, situated in village Karnal, Hadbast No. 1, Tehsil and District Karnal, for setting up of Urban Estate, Karnal. Notification u/s 6 of the Act was issued on 16.4.1981. The Land Acquisition Collector (for short, "the Collector"), vide award dated 6.7.1981 assessed the market value of different kinds of land at different rates. Dissatisfied with the award of the Collector, the landowners filed objections. On reference u/s 18 of the Act, the learned court below determined the market value of the acquired land @ Rs. 33/- per square yard vide award dated 9.4.1986. It is this award which is impugned in the present appeal.

3. Learned counsel for the applicants-appellants submitted that delay in filing the appeal before this Court be condoned. The contention is that delay should not come

in the way for granting substantial justice and the technicality should give way to justice. The Court should be liberal in condoning the delay.

4. Heard learned counsel for the appellants and perused the paper book.

5. Hon"ble the Supreme Court in [Mewa Ram \(Deceased\) by his Lrs. and Others Vs. State of Haryana through The Land Acquisition Collector, Gurgaon](#), did not accept the prayer for condonation of delay in filing the appeal because in another case enhancement of compensation for the adjacent land had been made.

6. In [State of Nagaland Vs. Lipok AO and Others](#), Hon"ble the Supreme Court opined that proof of sufficient cause is a condition precedent for exercise of discretion by the Court in condoning the delay.

7. In [D. Gopinathan Pillai Vs. State of Kerala and Another](#), Hon"ble the Supreme Court opined that when mandatory provision is not complied and the delay is not properly, satisfactorily and convincingly explained, the Court cannot condone the delay on sympathetic ground only.

8. The issue regarding condonation of delay has been considered by Hon"ble the Supreme Court in [Basawaraj and Others Vs. The Spl. Land Acquisition Officer](#), wherein it has been opined as under:-

"The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

9. The appeal along with the application for condonation of delay of 9,758 days was filed by the appellants before this Court on 26.3.2013 stating that they could not file the appeal in time as they were under the impression that Ek Ram (deceased) father of appellant nos. 2 to 4 had already filed the appeal against the impugned award but now when the similar cases have been decided and they got the enhanced compensation, then appellant no. 5 tried to trace out her case and finally found that no such appeal was filed against the impugned award by deceased Ek Ram. The delay is bonafide. It is neither intentional nor willful.

10. However, the fact remains that there are no particulars mentioned in the application regarding the date of knowledge and the reasons as to why the appellants did not prefer appeal earlier. Father of the applicants died on 7.12.1988, more than two years after the award of the learned Reference Court. This Court under similar circumstances had declined to condone the delay of 10 years 2 months and 39 days in filing the appeal in RFA No. 5793 of 2012-Brijesh Kumar and others vs. State of Haryana and another, decided on 22.11.2013. The order was upheld by Hon"ble the Supreme Court in [Brijesh Kumar and Others Vs. State of Haryana and Others](#),

11. The reason given by the applicants-appellants is not sufficient to condone huge delay of 9,758 days in filing the appeal. The appellants are not illiterate. They should have been vigilant about their case. They cannot be permitted to sleep over the matter for such a long time and then seek condonation of delay. It may be noticed that a number of land owners aggrieved against the award of the learned Court below pertaining to the same acquisition filed appeals before this Court which were disposed of vide judgment of this court in [Dr. Rajwant Singh Vs. State of Haryana](#),

12. For the reasons mentioned above, the application for condonation of delay in filing the appeal is dismissed. Consequently, the appeal as well as the other accompanying application are also dismissed.