

(2016) 03 P&H CK 0264
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 2578 of 2014 (O&M)

Bhag Singh and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 03-03-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 18(3)

Citation : (2016) 3 PLR 14

Hon'ble Judges : K. Kannan, J.

Bench : Single Bench

Advocate : Sanjay Mittal, Advocate, for the Appellant; Sidharth Sanwaria, DAG Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

K. Kannan, J. (Oral) - CM No. 6828-CII-2014.

1. For the reasons mentioned in the application, duly supported by an affidavit, delay of 217 days in refiling the appeal is condoned.

CM is disposed of.

CM No. 6829-CII-2014 and CR No. 2578 of 2014

1. There is a delay of 558 days in filing the civil revision, the revision is against the order rejecting an application to make a reference to Civil Court passed by the Collector, the order was passed by the Collector on 27.07.2011 and this was brought in challenge through writ petition filed in March 2011 in CWP No. 5787 of 2011. The Government took an objection that the writ petition was not competent and that only the civil revision petition could be filed. The Court dismissed the writ petition on 01.04.2013, the revision has been filed in November 2013. The delay is explained by the party as resulting because of the communication gap between the counsel and the party and the disposal of the writ petition was not immediately notified to the party and hence there was a

delay. The explanations are all fragile but since the matter relates to determination of compensation, the State shall have the benefit of the disposal by addressing an issue on merits. I, therefore condone the delay.

2. I have no doubt in my mind that the revision is the only appropriate remedy in view of the Punjab State Amendment through Act 2 of 1954 introducing sub Section 3 to Section 18 of the Land Acquisition Act. As per the said provision, the order made by the Collector, shall be subject to the revision by the High Court. The revision is therefore, competent.

3. The counsel points out to me a judgment of this Court, in Lachhman Dass (died) through LRs v. Union of India and another, 2005 (1) PLR 275 that holds that it is beyond the jurisdictional scope of the Land Acquisition Collector, to reject a reference as barred by limitation. The Collector shall at all times make a reference and leave it to the Court to decide on the objection as to the point of limitation for seeking a reference. In terms of the said judgment, I set aside the order passed by the Collector and direct the Collector to make reference to the Civil Court within four weeks from the date of the receipt of the copy of the order.

4. The Reference Court shall formulate the issue of limitation and serve notice to the State for its objections. The Reference Court will then decide on the point of limitation and if it is found to be within time, or if it find that there is scope for condoning the same and law accords to the Court such a scope, the Court, while considering the same pass the appropriate orders. The adjudication regarding enhancement will follow subsequently, after an adjudication is made on the issue of limitation.