
(2011) 10 P&H CK 0034

In the Punjab And Haryana At Chandigarh

Case No : CM No. 15170/CI of 2009 and R.F.A No. 5567 of 2009 (O and M)

Madan Puri and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 18-10-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2011) 10 P&H CK 0034

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajesh Bindal, J

1. Challenge by the Appellants in the present appeal is to the award dated 19.4.1997, passed by learned Additional District Judge, Chandigarh. Along with the appeal, an application for condonation of delay of 4424 days in filing thereof has also been filed.

2. Briefly, the facts are that land situated within the revenue estate of Village Manimajra, U.T. Chandigarh was acquired vide notification dated 15.6.1989 issued u/s 4 of the Land Acquisition Act, 1894 (for short, the Act") for development of residential-cum-commercial complex by the Chandigarh Administration. The Land Acquisition Collector (for short, "the Collector") determined the market value of the acquired land @ Rs. 1,65,400/- per acre. Aggrieved against the award of the Collector, the land owners filed objections. On reference, the learned Additional District Judge, Chandigarh, vide judgment dated 19.4.1997 keeping in view the material placed on record by the parties, determined the fair value of the acquired land @ Rs. 2,65,932/- per acre. It is this award which is impugned before this Court.

3. Learned Counsel for the applicants-appellants relied upon Dilbagh Singh v. Collector Land Acquisition Industries Department 2003 (1) RLR 102 to submit

that delay of 4424 days in filing the present appeal before this Court deserves to be condoned. The submission is that delay should not come in the way for granting substantial justice. The Court should be liberal in condoning the delay and pendency of another appeal arising out of the same acquisition is a valid ground for condonation of delay. 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 record.

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 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.

7. It may be noticed that a number of land owners aggrieved against the award of the learned Court below filed appeals before this Court which were finally disposed of vide judgment dated 15.10.2008, passed in R.F.A. No. 2117 of 1997 - Jagir Singh v. Union Territory.

8. The present appeal along with application for condonation of delay of 4424 days was filed by the applicants-appellants before this Court on 28.8.2009 stating therein that the Appellants engaged Mr. S.K. Goel, Advocate, to file appeal in this Court. They handed over all the documents to him. On coming to know from the other landowners that the appeals arising out of aforesaid acquisition have been listed for final hearing, they contacted their counsel. However, they were informed that Mr. S.K. Goel, Advocate, had expired about 5-6 years back. They were shocked when they came to know that no appeal on their behalf was filed in this Court. Thereafter, the Appellants filed the present appeal and the application for condonation of delay. No reason is forthcoming as to why the applicants-appellants were not pursuing their case after submitting the documents to Mr. S.K. Goel, Advocate. The story put forth by the Appellants has been concocted by them only after knowing the enhancement of compensation in the appeals filed by other landowners.

9. Keeping in view the aforesaid facts, I do not find that the cause shown by the applicants-appellants for condonation of delay of 4424 days in filing the appeal is sufficient.

10. Accordingly, the application for condonation of delay is dismissed. Consequently, the appeal is also dismissed.