

(2012) 03 P&H CK 0072

In the Punjab And Haryana At Chandigarh

Case No : CM No's. 480-482/CI of 2012 and Regular First Appeal No. 249 of 2012 (O and M)

Raghibir and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 19-03-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2012) 03 P&H CK 0072

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—The landowners in the present appeal are seeking enhancement of compensation for the acquired land. Briefly the facts are that vide notifications dated 5.5.1997 and 15.5.1997 issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act") the State of Haryana acquired land in the revenue estates of villages Kanahai, Wazirabad, Samaspur and Bindapur, Tehsil and District Gurgaon, for public purpose. The Land Acquisition Collector (for short, "the Collector") awarded compensation of acquired land of different villages at different rates. Dissatisfied with the award of the Collector, the landowners filed objections. The learned court below vide award dated 6.5.2008 determined the market value of the acquired land @ ` 717/- per square yard. Aggrieved against the award of learned Court below, the landowners are before this Court. Along with the appeal, an application seeking condonation of delay of 872 days in filing the appeal has also been filed.

2. 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.

3. Heard learned counsel for the applicants-appellants and perused the record.

4. 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.

5. 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

6. 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. The present appeal along with application for condonation of delay of 872 days was filed by the applicants-appellants before this Court on 24.12.2010 stating therein that the appellants and other landowners, whose land has been acquired, decided to file appeals through one advocate. The appellants also gave money and signed vakalatnama for the purpose. However, when appeals of other landowners were listed, then they came to know that appeal on their behalf has not been filed. On coming to know about the non-filing of appeal, they filed the present appeal along with application for condonation of delay. The delay had occurred in filing the appeal due to this reason. The delay is bonafide, not intentional or willful. No reason is forthcoming as to why they were not following their case diligently. The reason given by the applicants-appellants is not sufficient to condone huge delay.

8. 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 disposed of vide judgment dated 1.10.2010, passed in RFA No. 1824 of 2006 Sudama and others vs The State of Haryana and another. The appeal in the present case was filed thereafter on 24.12.2010.

9. Keeping in view the aforesaid facts, I do not find that the cause shown by the applicants-appellants for condonation of delay of 872 days in filing the appeal is sufficient. Accordingly, the application for condonation of delay is dismissed. Consequently, the appeal and other accompanying applications are also dismissed.