

(2019) 11 P&H CK 0103

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 639 Of 2018 (O & M)

State Of Haryana And Another

APPELLANT

Vs

Mudit Kumar And Another

RESPONDENT

Date of Decision : 18-11-2019

Acts Referred:

Citation : (2019) 11 P&H CK 0103

Hon'ble Judges : G.S.Sandhawalia, J

Bench : Single Bench

Advocate : Shivendra Swaroop

Final Decision : Partly Allowed

Judgement

G.S.Sandhawalia, J

C.M. No. 1566-CI of 2018

Application for condonation of delay of 231 days in filing the appeal is allowed, in view of the averments made in the application duly supported by affidavit and in view of the lack of opposition to it as none has put in appearance on behalf of the respondents despite being served.

Delay condoned.

Main Appeal

The present appeal is directed against the award of the Reference Court, Yamuna Nagar at Jagadhari dated 24.03.2017. The market value has been enhanced from 24 lakhs per acre for the prime land, Rs.20 lakhs per acre for the land situated in village Bhatauli within municipal limits and from Rs.10 lakhs per acre for the remaining land to Rs.3,610/- per square meter (Rs.1,46,09,164/- per acre). The enhancement is on the basis of the judgment of this Court in RFA No. 3860 of 2014, Ajmer Singh and others vs. State of Haryana and others.

It is not disputed that the said judgment has been modified by the Apex Court in

Manoj Kumar and others vs. State of Haryana and others, 2018 (2) RCR (Civil) 815 and the amount has been reduced to Rs.95,00,000/- per acre. The relevant portion reads thus:-

"32. Even if we calculate compensation by adding between 12 to 13% flat increase, taking base price at Rs.1560/- granted in the case of Swaran Singh in the facts of the case, the price would come approximately to Rs.1.10 crores per acre. Further deduction in addition to deduction made in Swaran Singh's case (supra) is required to be made towards development, it would be appropriate to deduct further amount of Rs.15 lakhs. Thus the compensation that we award comes to Rs.95 lakhs per acre, not Rs.1,46,09,000/- as determined by the High Court. Approximation of compensation, when made on comparable sale method, would by and large be similar. We reduce the amount awarded by the High Court. Thus, we deem it appropriate to award the amount @ Rs.95 lakhs per acre along with statutory benefits."

The additional ground that counsel for the State has argued is that the reference had been dismissed for want of prosecution on 05.03.2010 and was restored on 18.01.2017. The interest element was, therefore, not liable to be granted for the said period on account of the delay as high statutory interest was liable to be paid by the State on account of the negligence of the land owner.

At the first blush, the argument seems to be acceptable but a perusal of the record would go on to show that the application for restoration was allowed on 18.01.2017. The Reference Court noticed that no summons had been sent to the petitioner and served upon him. The service had been made upon his mother. It was also noticed that the knowledge as such only was acquired in June, 2015 and the application was immediately filed on 04.08.2015. The judgment of the Supreme Court in Khazan Singh (D) through L.Rs. vs. UOI, 2002 (2) PLR 669 was relied upon that Civil Court has to pass an award in answer to the reference made by the Collector and it cannot be dismissed in default. The said order has never been challenged by the State at that point of time.

It is not disputed that the acquisition as such was for the development and utilization of land as residential, commercial areas for Sectors 22 to 24 Jagadhari and large chunk of land was acquired. It was not the only reference which was pending before the Reference Court and the matter could have been decided alongwith the other connected matters if the land owners had not put in appearance. As noticed, it was carried in appeal before this Court and this Court enhanced the compensation in Ajmer Singh's case (supra) and subsequently was taken to the Apex Court by the State and the amount of compensation has been reduced. In such circumstances, on account of the fault of the Court, the land owner cannot be adversely effected. Reference can be made to the maxim "Actus Curiae Neminem Gravabit" and the observations of the Full Bench in Maharana Pratap Charitable Trust (Regd.) vs. State of Haryana and others, 2015 (1) PLR 291 that the act of Court will harm no litigant.

Resultantly, there is no merit in the argument of the State on the entitlement of the statutory interest for the period the reference had not been restored. Accordingly, the appeal is partly allowed to the extent that the market value is fixed at Rs.95,00,000/- per acre alongwith all statutory benefits.