

(2021-3)203 PLR 189

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice G.S. Sandhawalia.

HSI IDC, PANCHKULA - Petitioner,

Versus

DHARAM SINGH and others - Respondents.

CR No.980 of 2021

**(i) Constitution of India, Article 227 - Limitation - Civil revision - Order was passed more than 2 ½ years back and the present revision petition has been filed much after the period of limitation has expired as such and suffers from inordinate delay. [Para 3]**

**(ii) Land Acquisition Act, 1894, Section 28-A -Execution - Executing Court had noticed that compensation was awarded by alongwith all statutory benefits by the High court in a matter of the co-owner and on which the landowner has been given the parity by relying upon the principle that the co-owner is also entitled for the same amount of compensation, who had might not filed the petition under Section 18 of the Act - All landowners are entitled for the same amount of compensation once the land had been acquired for the same purpose under the principle of 'eminent domain' - Order upheld.**

Cases referred to:-[Narendra v. State of Uttar Pradesh](#), [OFFICE OF THE CHIEF POST MASTER GENERAL v. LIVING MEDIA INDIA LTD.](#)

*Mr. Pritam Singh Saini, for the petitioner. (Through video conferencing)*

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**G.S. Sandhawalia , J. - (27th April, 2021)** - In the present revision petition filed under Article 227 of the Constitution of India, the petitioner-Corporation seeks setting aside of the order dated 16.10.2018 (Annexure P-4) passed by the learned Additional District Judge, Gurugram.

2. Vide the said order the execution petition of the landowner-respondent No.1 has been allowed whereby he has been granted enhanced compensation @ Rs.43,61,400/- per acre for village Baslambi, Tehsil Farrukh Nagar, District Gurugram, for the land which was acquired vide notification issued under Section 4 of the Land Acquisition Act, 1894 dated 27.09.2005. The Executing Court had noticed that earlier compensation @ Rs.46,07,890/- per acre was awarded by the Additional District Judge, by this Court in RFA No.384 of 2013 '*Tej Singh and another v. State of Haryana and others*'<sup>1</sup> and other connected cases decided

on 01.06.2018 had fixed the same @ Rs.43,61,400/- per acre alongwith all statutory benefits and on which the landowner has been given the parity by relying upon the principle that the co-owner is also entitled for the same amount of compensation, who had might not filed the petition under Section 18 of the Act.

3. The said order was passed more than 2 ½ years back and the present revision petition has been filed much after the period of limitation has expired as such and suffers from inordinate delay. Therefore, this Court is not inclined to interfere in the orders of the Executing Court.

4. Even otherwise on the principle of equity also keeping in view the law laid down by the Apex Court in the case of '*Narendera and others v. State of U.P. and others*', <sup>2</sup> 2017 Scej 005, 2017 (9) SCC 426 all landowners are entitled for the same amount of compensation once the land had been acquired for the same purpose under the principle of 'eminent domain'. The relevant portion of the said judgment reads as under:-

"8) The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in mind that those land owners who are agriculturist in most of the cases, and whose land is acquired for public purpose should get fair compensation.

Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is incorporated by the Legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not be made applicable and rendering substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell of their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons divested of their land is determined by the Land Acquisition Collector. Scheme further provides that his determination is subject to judicial scrutiny in the form of reference to the District Judge and appeal to the High Court etc. In order to ensure that the land owners are given proper compensation, the Act provides for 'fair compensation'.

Once such a fair compensation is determined judicially, all land owners whose land was taken away by the same Notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination by giving different treatment to the persons though identically situated. On technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them.

9) No doubt the judicial system that prevails is based on adversarial form of adjudication. At the same time, recognising the demerits and limitations of adversarial litigation, elements of social context adjudication are brought into the decision making process, particularly, when it comes to administering justice to the marginalised section of the society.”

5. Accordingly, keeping in view the above, this Court is of the opinion on account of inordinate delay the present revision is dismissed, in view of the law laid down by the Apex Court in '*Office of the Chief Post Master General & others v. Living Media India Ltd. & another*'<sup>3</sup> 2012 SCej 006, 2012 (3) SCC 563. The principles were laid down as under:-

“12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available.

The law of limitation undoubtedly binds everybody including the Government.

13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment.

Condonation of delay is an exception and should not be used as an anticipated benefit for government departments.

The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

Dismissed.

R.M.S.

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*Petition dismissed.*