

PETITIONER:
BUTA SINGH

Vs.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT 01/03/1994

BENCH:

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. In this case the question is whether the petitioner/claimant is entitled to pay the deficit court fee after the appeals are allowed by condoning the delay in payment thereof. The High Court refused to condone the delay and following the earlier order, dismissed the appeal. On similar situation, number of matters have been filed before this Court. Learned counsel for the petitioner in fairness has brought to our notice a recent order of this Court in Chand Kaur v. Union of India¹. Therein their Lordships of the two-Judge Bench were pleased to follow the decision reported in Bhag Singh v. Union Territory of Chandigarh² and allowed the appeals, condoned the delay and directed to compute the benefit of enhanced compensation and statutory benefits. Earlier a three-Judge Bench of this Court has considered that whether the High Court would be justified in refusing to condone the delay and permitting to pay the deficit court fee in S.C. Cooperative Land Owning Society Ltd. v. Union of India³ and held that the refusal to condone the delay and not directing to pay the court fee was justified and this Court did not interfere with the order. The Bench disposing of Chand Kaur case¹ does not appear to have been noticed nor brought to its notice the binding precedent of three-Judge Bench.

+ From the Judgment and Order dated 30-1-1989 of the High Court of Punjab and Haryana in C. Misc. No. 1519 of 1989 in LPA No. 173 of 1988

1 (1994) 4 SCC 663

2 (1985) 3 SCC 737: AIR 1985 SC 1576

3 (1991) 1 SCC 174

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2. Earlier there is a three-Judge Bench judgment in which a prayer was made for condonation of delay and direction to pay the court fee. While the appeals were allowed by that court, therein it was stated that a batch of cases concerning the same acquisition was disposed of giving the benefit of condoning the delay in paying the deficit court fee and giving entitlement to the enhanced compensation. That case was cited before the three-Judge Bench and that was distinguished. Later the three-Judge Bench judgment in S.C. Cooperative Land Owning Society Ltd. v. Union of India³ is being followed. In view of the latest decision, an uncertainty would be created whether it would be permissible

to file the appeals without paying proper court fee and arguing the case on merits for enhancement of compensation and thereafter applying for condonation of the delay in payment of court fee and condonation thereof or to seek direction to pay the same would loom large and would become a practice or precedent.

3. In certain cases, we have come across that this practice is being followed by some of the Benches in Punjab and Haryana High Court and also in Delhi High Court. In some cases, the High Courts are following the later judgment of the three-Judge Bench. Thereby an uncertainty in principle is being created that whether the claimants would be entitled to file appeals without paying the court fee and then to argue the matter on merits for the enhancement of the compensation and thereafter whether they be permitted to pay the deficit court fee on the enhanced market value on condonation of delay and entitled to the benefits thereon.

4. In this view of this uncertainty, we feel it expedient that a request may be made to the Hon'ble Chief Justice to refer this case before a Constitution Bench to lay down the law on two points, namely, (1) whether an appeal under Section 96 of CPC arising out of the land acquisition appeals filed under Section 54 of the Land Acquisition Act either in this Court or in the High Courts would be maintainable without paying the proper court fee on the enhanced market value claimed therein; and (2) whether the High Courts or this Court would be justified in condoning the delay in paying the deficit court fee and giving direction to pay the same after the appeals are allowed. The decision on these points would settle the principles to be followed uniformly by all the courts in the country.

5. Accordingly, we direct the Registry to place this case before the Hon'ble Chief Justice for placing the matter before the Constitution Bench and for earlier disposal, since number of matters are coming frequently for admission in this Court.

6. Issue notice.

7. Learned Attorney General is requested to assist the Court. The standing counsel for the States of Punjab and Haryana are also directed to take notice in this matter and appear on behalf of the parties and assist the Court.

Court Master