

Dhiraj Singh (D) Tr

v.

Haryana State

(Supreme Court Of India)

C. A. Nos. 6599-6601 of 2014 (Arising out of SLP (C) Nos. 22139-22141/2012) and C. A. Nos. 6603-6606 of 2014 (Arising out of SLP (C) Nos. 18985-18988/2014) (CC Nos. 11635-11636), C. A. Nos. 6607-6608 of 2014 (Arising out of SLP (C) Nos. 26448-26449/2013) | 21-07-2014

Permission to file the special leave petitions is granted.

Delay in filing the special leave petitions and application for substitution is condoned.

Application(s) for substitution are allowed and LRs are brought on record.

1. Leave granted. All these appeals arise out of the common and identical events whereby lands of the Appellants were acquired by the Government of Haryana under the provisions of Land Acquisition Act. The Appellants are claiming enhanced compensation on the basis of judgment of the Division Bench of the High Court in the same fact situation. Therefore, these appeals are heard and decided by this common order for the sake of convenience. However, we shall take the facts from Civil Appeal Nos. 6599-6601/2014.

2. The Government of Haryana sought to acquire 132.06 acres of land vide notification dated 22.8.1988 Under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act). Thereafter, declaration Under Section 6 of the Act was issued and award was passed on 30.3.1990. The Land Acquisition Collector assessed the compensation for the Chahi land @ ` 3,50,000/- per acre, regarding Gair Mumkin etc. Compensation was assessed @ ` 1,50,000/- per acre. Applications were moved by the land owners/appellants herein Under Section 18 of the Act for enhancement of compensation. Vide award dated 14.1.1992, the Additional District Judge awarded compensation at the rate of ` 101/- per square yard for the entire land.

3. The Appellants were not satisfied and they filed Regular First Appeal before the High Court of Punjab and Haryana at Chandigarh. The State also filed appeals against the enhancement of compensation by the Court below. All these appeals came up for consideration before the learned Single Judge of the High Court and vide common judgment dated 24.12.1993, passed in R.F.A. No. 1370 of 1992 (Krishan Lal v. State of Haryana and Anr.), the High Court dismissed all the appeals filed by the land owners and also the State of Haryana.

4. Against the above said order, the similarly situated land owners went in appeal and vide judgment dated 27.7.2005 passed in LPA No. 920 of 1994 titled as Horam v. Haryana State and Anr., a Division Bench of the High Court awarded compensation @ ` 200/- per square yard for the land under acquisition.

5. The Appellants in all these appeals had preferred the Regular First Appeals which were heard and dismissed by the learned Single Judge along with appeals of other persons. However, they did not challenge the order by preferring further appeal before the Division Bench, though, similarly situated land owners had preferred the appeals and in their cases, compensation was enhanced to ` 200/- per square yard. The aforesaid rate of ` 200/- per sq. yard has been upheld by this Court in Ajay Pal v. State of Haryana and Ors. (Civil Appeal No. 610 of 2012).

6. It is the case of the Appellants that due to their financial weak condition, they could not file the Letter Patent Appeals (LPAs) before the Division Bench and on coming to know of the judgment dated 27.7.2005 rendered by the Division Bench, they also filed their appeals. However, since there was delay in preferring these appeals, the High Court has refused to condone the delay and dismissed the LPAs.

7. Against the orders passed by the High Court, the Appellants have filed these proceedings.

8. No doubt, there is a long delay in filing the appeals. However, we find that it is a case of payment of compensation to these Appellants who were the land owners and which land was taken away by compulsory acquisition. However, land owners whose lands were taken over by the same notification, have been able to get the compensation (a) ` 200/- per square yard whereas the compensation given to the Appellants is @ ` 101 per square yard for their entire land.

9. It is also not in dispute that the Appellants are agriculturists. Their averment that they could not prefer the LPAs because of their financial weak condition has not been disputed by the Respondents.

We find that in a similar situation, this Court had condoned the delay of 3240 days in the case of Market Committee, Hodal v. Krishan Murari and Ors. 1996 (1) SCC 311. There are many other cases cited by the Appellants condoning the delay in similar circumstances.

10. In the matter of land acquisition where land of peasants is acquired, a different approach has to be taken. These persons should not be deprived of the reasonable compensation for their lands. If other similarly situated land owners are given the compensation @ ` 200/- square yard, there is no reason to pay the compensation to the Appellants at much lesser rate. In this context, we would like to quote the following observations from the judgment dated November 29, 2013 in the case of Imrat Lal and Ors. v. Land Acquisition Collector and Ors. (Civil Appeal No. 10799 of 2013).

"While we agree with Shri Narender Hooda that the averments contained in the application for condonation of delay were extremely vague and did not provide satisfactory explanation for the long delay of 1110 days, but it cannot be ignored that in identical matters another learned Single Judge had granted relief to the landowners by enhancing the compensation and this factor should not have been overlooked by the learned Single Judge while deciding the application for condonation of delay.

We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the acquisition matters involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.

In Civil Appeal Nos. 5335-5336 of 2013 titled Samiyathal and Ors. v. Special Tahsildar and Ors. decided on 5.7.2013, this Court took cognizance of the fact that many landowners may not have been able to seek intervention of this Court for grant of enhanced compensation due to illiteracy, poverty and ignorance and issued direction that those who have not filed special leave petition should be given enhanced compensation. The relevant portion of the judgment passed in that case is extracted below:

"We further direct the Respondents and the State of Tamil Nadu to pay the same amount of compensation to other landowners whose land was acquired by notification dated 22.05.1991, but who may have on account of ignorance, poverty and other similar handicaps, not been able to approach the

Reference Court or may not have been able to contest the matter before the High Court and this Court. The needful be done in respect of other landowners within a period of six months. This direction has been given in exercise of the power vested in this Court under Article 142 of the Constitution."

In view of the above discussion, the appeal is allowed, the impugned order is set aside and the delay in filing RFA No. 5477/2011 by the Appellants is condoned."

11. In fact, in a matter arising out of the same notification, in Civil Appeal Nos. 617-619 of 2012, this Court had rendered a judgment dated 17.1.2012 condoning the delay of 4644 days and enhancing the compensation to ` 200/- per square yard. A perusal of the counter affidavit filed by the Respondents makes it clear that the rate of ` 200/- per sq. yard fixed in Horam's case (LPA No. 920 of 1994) has been upheld by this Court by dismissing the special leave petition against the said judgment. A perusal of the said order makes it clear that it relied upon dismissal orders passed in various other special leave petitions whereby the aforesaid rate had been upheld.

12. Thus, in almost all cases, the rate of ` 200/- per sq. yard has been applied by the High Court and this Court.

13. The Appellants are identically situated and there is no reason to meet out a different treatment to them. We also note that, while in these cases, the High Court had refused to condone the delay and dismissed the LPAs of the Appellants, other LPAs were allowed by the High Court itself by condoning the delay of the same magnitude in the same circumstances.

14. Equities can be balanced by denying the Appellants interest for the period for which they did not approach the Court. The substantive rights of the Appellants should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations. In the matter of compensation for land acquisition, we are of the view that approach of the Court has to be pragmatic and not pedantic.

15. The principles regarding condonation of delay particularly in land acquisition matters, have been enunciated in Collector(LA) v. Katiji 1987(2) SCC 107, where it is stated in para 3 as under:

"3. The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of

matters on "merits". The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice - that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

"1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

16. The aforesaid judgment was followed by this Court in DDA v. Bhola Nath Sharma 2011(2) SCC 54, which was also a matter concerning land acquisition. We, accordingly, allow these appeals. Impugned orders of the High Court are set aside. Delay in filing the LPAs is condoned. It is held that the Appellants shall be entitled to enhanced compensation @ ` 200/- per square yard. However, for the period of delay in approaching the High Court by way of LPAs, in all these cases, no interest should be paid to them.

Compensation shall be worked out accordingly and paid to the Appellants within a period of three months from today.