

CM No. 1172 of 2008.

Present: Ms. Jai Shree Thakur, Advocate,
for the applicants.

Shri J.S.Toor, Advocate.

Heard. The objections enclosed with the CM are taken on record and the application disposed off.

CM No. 709 of 2006.

Heard. Although the delay in the refiling of the appeal papers appears to be inordinate, we are inclined to condone the same, keeping in view the fact that one of the appellants is a minor and the issue relating to amount of compensation payable to the owners stands concluded by a decision of this Court in L.P.A.No. 241 of 2004. The application is accordingly allowed and the delay is condoned.

CM No.710 of 2006

Heard. There is a delay of 116 days in the filing of the appeal papers. For the reasons stated in the application which is supported by an affidavit and keeping in view the fact that one of the appellants is a minor and the issue relating to amount of compensation payable to the owners stand concluded by a decision of this Court in L.P.A.No. 241 of 2004, the application is allowed and the delay condoned.

CM No. 711 of 2006.

The deficiency in the Court fee payable on the memo of appeal shall be worked out by the registry and paid by the appellants within six weeks. The CM is disposed of.

CM No. 712 of 2006.

Heard. Late Shri Gurmukh Singh was one of the appellants in

R.F.A. No. 2433 of 1990. He passed away on 27.02.1992. By an order dated 24.07.1992 passed by the learned Single Judge in the said appeal his L.Rs , namely, Nachatter Kaur widow of Gurmukh Singh and Gurminder Kaur wife of Harnek Singh son of Gurmukh Singh were brought on record in place of the deceased appellant. Despite the said order, however, in the decree sheet prepared by the registry, the name of late Shri Gurmukh Singh continued to be shown as appellant. This has led to the filing of the present application by the appellants seeking substitution of the L.Rs of deceased Gurmukh Singh again. Since the L.Rs of the deceased have already been substituted, the appellants-applicants ought to have got the decree sheet amended so as to include the names of the L.Rs in place of Gurmukh Singh. Be that as it may, we direct the correction of the decree sheet so as to show the L.Rs of the deceased Gurmukh Singh as appellants in the appeal. We also permit the appellants-applicants herein to amend the memo of appeal so as to show the said L.Rs of the appellants in the present appeal representing the estate of Gurmukh Singh, deceased. CM No. 712 of 2006 is disposed off.

It is note worthy that Nachattar Kaur has also passed away and her L.Rs have already been substituted. The memo of parties filed by the appellants shall therefore correctly enumerates the appellant as the L.Rs of the deceased.

CM no. 713 of 2006.

Appellant Bachan Singh has passed away on 10.07.2000. This application seeks substitution of his L.Rs mentioned in the application in place of the deceased. Substitution is prayed for on the basis of a registered Will dated 9.1.1990 executed by the deceased Bachan Singh in favour of Bhupinder Singh, Rupinder Singh and Jatinder Singh sons of Pal Singh son of Bachan Singh. Although there is a delay in the filing of this

application, we are inclined to condone the same having regard to the fact that the issue arising for consideration relates to the payment of compensation due to the appellants for the land acquired from their ownership which issue stands concluded in favour of the appellants by the decision of this Court in connected L.P.A.No. 241 of 2004. We accordingly allow this application also and direct substitution of the L.Rs mentioned above in place of deceased Bachan Singh.

CM No. 714 of 2006.

Appellant Surjit Kaur has passed away on 25.12.2005. Her L.Rs are already on record as appellants No. 3 to 9. All that therefore needs to be done is to make a formal order of substitution showing the L.Rs appellants No. 3 to 9 as representing the estate of deceased appellant Surjit Kaur also. CM is disposed of with the above observation.

LPA No. 153 of 2006.

Nachattar Kaur etc. Vs. U.T.Chandigarh

T.S.Thakur,CJ (Oral)

This appeal arises out of an order dated 29.07.1999 passed by learned Single Judge of this Court in R.F.A. No. 2433 of 1990 whereby compensation payable to the appellants for the land acquired from their ownership has been enhanced to the extent of Rs.3,82,264/- (to say Rs. 3,82,360) per acre. The appellants seek further enhancement in this appeal by Rs. 100/- per square yard. The controversy arises in the following circumstances.

A large chunk of land measuring 61,64 acres situate at Mani Majra in Chandigarh was notified for acquisition under Section 4 of the

Land Acquisition Act vide notification dated 10.12.2006. The land was meant for the rehabilitation of slum dwellers. A declaration under Section 6 of the Act was issued on February 25, 1987. By award dated 27.03.1987 made by the Land Acquisition Collector, the compensation payable to the land owners including the appellants who own a total of 1.01 acre of land out of the land under acquisition was determined, at Rs. 85,000/- per acre. Dis-satisfied with the said amount, the appellants appear to have sought a reference to the Civil Court for determination of true and correct amount of compensation payable to them. The reference court eventually passed an order dated July 24, 1990 by which the amount of compensation payable to the land owners was enhanced to Rs. 2,00,000/- (Two lacs) per acre. The owners remained dis-satisfied even with the said enhancement and preferred R.F.A. No. 2433 of 1990 which has been disposed of by a learned Single Judge of this Court vide order dated July 29m 1999 enhancing the amount of compensation from Rs. 2,00,000/- to Rs. 3,82,360/- per acre which works out to Rs. 79/- per square yard. In the present appeal preferred against the said order, the appellant claim further enhancement of Rs. 100/- per square yards.

We have heard learned counsel for the parties at some length and perused the record.

Our attention has been drawn by learned counsel for the parties to an order passed by a Division Bench of this Court Comprising Hemant Gupta and K.S. Ahluwalia, JJ in L.P.A. No. 241 of 2004 disposed of on September 17, 2008. It is submitted by learned counsel for the parties that the land which was the subject matter of the said appeal also comprised a large chunk which was acquired vide a similar notification and the declaration mentioned earlier. It is submitted that this Court has in the appeal mentioned above, enhanced the amount of compensation payable to the land owners from Rs. 79/- per square yards to Rs.160/- per

square yard with proportionate statutory benefits including solatium and additional market value payable under Section 23(1A) of the Act. It is submitted that since this Court has already examined the evidence on record and also taken into consideration all other factors relevant to the determination of true and correct amount of compensation payable to the owners of the land, this appeal could be disposed of on the analogy of that decision, enhancing the compensation payable to the appellants to Rs.116/- with proportionate statutory benefits. We see no reason to decline that request of the appellants. The decision of this court in L.P.A. No. 241 of 2004 is in our opinion sufficient to conclude the controversy as to the actual market value of the land acquired from the ownership of the appellants. In the circumstances therefore we allow this appeal but only in part and to the extent that the appellants herein shall be entitled to compensation at the rate of Rs. 116/- per square yard with all proportionate, statutory benefits and interest in terms of the Act. Proportionate costs of the appeal shall also be payable to the appellants.

(T.S.Thakur)
Chief Justice

(Jasbir Singh)
Judge

December 24, 2008
Malik