



2026:AHC:63469

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 241 of 2026

Khushhal And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Krishna Mohan Ojha, Madan Mohan Chaurasisa, S.K. Dubey, Shanti Swaroop Singh
Counsel for Respondent(s)	:	S.C., Utkarsh Birla

Court No. - 39

HON'BLE SANDEEP JAIN, J.

Order on Civil Misc. Delay Condonation Application No. 4 of 2023 and Civil Misc. Substitution Application No. 5 of 2023

1. The instant delay condonation application has been filed for condoning the delay in filing the substitution application to bring on record the legal heirs of deceased Appellant No. 9, Ramesh, who died on 11.09.2016, leaving behind his son, Daleshwar Chauhan, and three married daughters, Smt. Kusum, Smt. Pushpa, and Smt. Usha, as his legal heirs.
2. Learned counsel for the appellants submitted that the legal heirs were not aware that they were required to be substituted on record; therefore, the substitution application could not be filed within time.
3. An affidavit has been filed in support of the delay-condonation and substitution applications, which remains uncontroverted. The cause shown for filing the substitution application with delay is sufficient.
4. Accordingly, the delay in filing the substitution application is condoned.
5. The delay-condonation application as well as the substitution application are allowed.
6. Learned counsel for the appellant is directed to amend the memo of appeal accordingly.

Order on Civil Misc. Delay Condonation Application No. 48279 of 2015 and Civil Misc. Substitution Application No. 48280 of 2015

1. The instant delay condonation application has been filed for condoning the delay in filing the substitution application to bring on record the legal heirs of deceased Appellant No. 7, Surajmal, who died on 08.08.2007, leaving behind four sons, Lajje Singh, Lachhe Singh, Anangpal Singh, and Dharampal Singh. Learned counsel for the appellant submitted that

appellant no.8, Sheo Lal has also died on 22.09.2014, leaving behind his son Gurudutt Singh and Om Prakash Singh.

2. Learned counsel for the appellants submitted that the legal heirs were not aware that they were required to be substituted on record; therefore, the substitution application could not be filed within time.

3. An affidavit has been filed in support of the delay-condonation and substitution applications, which remains uncontroverted. The cause shown for filing the substitution application with delay is sufficient.

4. Accordingly, the delay in filing the substitution application is condoned.

5. The delay-condonation application as well as the substitution application are allowed. Learned counsel is directed to amend the memo of appeal accordingly.

Order on Civil Misc. Application (Additional Documents) No.6 of 2023

1. Learned counsel for the appellants submitted that the matter, insofar as it relates to the award of compensation for the land in Village Gijhore, which was acquired by Noida through a notification issued under Section 4 dated 28.02.1990, has already been settled by this Court as well as by the Apex Court, as such the judgments of this Court and the Apex Court be taken on record in additional evidence.

2. Since the judgments of this Court and the Apex Court in ***Noida vs. Harchand (deceased) through legal heirs*** are relevant for deciding the appeal, they are taken on record. Accordingly, the application is allowed.

Order on Appeal

1. The instant appeal has been filed by the landowners for enhancement of compensation under Section 54 of the Land Acquisition Act, 1894 against the impugned judgment and award dated 16.08.2000 passed by the Court of Xth Additional District Judge, Ghaziabad in Land Acquisition Reference No. 284 of 1993 [Khushal (deceased) through legal heirs and others vs. State of U.P. and Another], whereby, for the acquired land of the landowners situated in Village Gijhore, Pargana and Tehsil Dadri, District Ghaziabad (now Gautam Budh Nagar), which was acquired through notification under Section 4 of the Land Acquisition Act, 1894 dated 28.02.1990, a compensation at the rate of Rs.126/- per square yard has been awarded to the landowners along with other statutory benefits admissible under the Land Acquisition Act, 1894.

2. Learned counsel for the appellant-landowners submitted that the matter relating to the acquisition of land situated in Village Gijhore, Pargana and Tehsil Dadri, District Ghaziabad (now Gautam Budh Nagar), which was acquired through notification under Section 4 of the Act of 1894 dated

28.02.1990 has attained finality, since the Apex Court in the case of *New Okhla Industrial Development Authority (NOIDA) vs. Harchand (since deceased) through his legal heirs and others* in *Civil Appeal No.2250-2251 of 2023* decided on 28.03.2023 has awarded a compensation @ Rs.306/- per square yard, besides other statutory benefits admissible under the Land Acquisition Act, 1894.

3. Learned counsel submitted that keeping in view, the above judgment of the Apex Court, the landowners/appellants in the instant appeal are also entitled to the same amount of compensation, which has been awarded by the Apex Court in the above mentioned case.

4. None is present for the respondent/Noida. Illness slip of Shri Utkarsh Birla, learned counsel for the respondent/Noida is rejected.

5. I have heard the learned counsel of the appellants and perused the impugned judgment and documents submitted with the appeal. Appeal is admitted.

6. It is apparent that in the instant case, the matter relates to the acquisition of land situated in Village Gijhore, Pargana and Tehsil Dadri, District Ghaziabad (now Gautam Budh Nagar), which was acquired through notification issued under Section 4 of the Land Acquisition Act, 1894, dated 28.02.1990. The declaration under Section 6 was made on 31.07.1990, possession of the land was taken on 21.02.1991, and the Collector's award was made on 30.07.1992, whereby compensation at the rate of Rs. 50 per square yard was awarded to the landowners, which has been enhanced to Rs. 126 per square yard by the Reference Court in the impugned judgment and award.

7. It is further apparent that the matter relating to acquisition of land situated in Village Gijhore, Pargana and Tehsil Dadri, District Ghaziabad (now Gautam Budh Nagar), which was acquired through notification issued under Section 4 of the Land Acquisition Act, 1894, dated 28.02.1990 has attained finality, since the Apex Court in the case of *Harchand (supra)* decided on 28.03.2023 has awarded a compensation at the rate of Rs.306/- per square yard, besides other statutory benefits admissible under the Land Acquisition Act, 1894.

8. In view of the above pronouncement of the Apex Court, the appellants/landowners of the instant appeal are also entitled to get similar amount of compensation for their similarly situated and acquired land.

9. **Accordingly, this appeal is allowed.** The appellants/landowners are held entitled to get enhanced compensation at the rate of Rs.306/- per square yard along with 30% solatium, additional compensation @ 12% per annum and enhanced interest under Section 28, as provided under the Land Acquisition Act, 1894.

10. This instant appeal was filed on 02.12.2000 but the deficiency of the Court fees was made good on 10.12.2014, as such, the appellants are not entitled to get any statutory interest on the enhanced amount of compensation awarded by this Court, for the above mentioned period between 02.12.2000 to 10.12.2014.

11. However, in the facts and circumstances of the case, there shall be no order as to costs.

12. Office is directed to prepare the decree accordingly.

(Sandeep Jain,J.)

March 26, 2026

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