

HIGH COURT OF UTTARAKHAND
AT NAINITAL

First Appeal No. 24 of 2018

Pravesh Kumar ... Appellant

Vs.

Collector Dehradun and Another ... Respondents

With

FA No. 25 of 2018, FA No. 26 of 2018, FA No. 27 of 2018,
FA No. 28 of 2018, FA No. 29 of 2018, FA No. 30 of 2018,
FA No. 31 of 2018, FA No. 32 of 2018, FA No. 33 of 2018,
FA No. 34 of 2018, FA No. 35 of 2018, FA No. 38 of 2018,
FA No. 39 of 2018, FA No. 40 of 2018, FA No. 41 of 2018,
FA No. 42 of 2018, FA No. 43 of 2018, FA No. 46 of 2018,
FA No. 47 of 2018, FA No. 48 of 2018, FA No. 49 of 2018,
FA No. 82 of 2018, FA No. 83 of 2018 and FA No. 84 of 2018

Advocate: Mr. Rajendra Dobhal, Senior Advocate, assisted by Mr. Prince Chauhan and Mr. Subhang Dobhal, Advocates, for the appellant.

Mr. I.P. Kohli, Standing Counsel, for the State

Dr. Kartikey Hari Gupta, Advocate, for the respondent

Hon'ble Sharad Kumar Sharma, J.

This bunch of First Appeals under Section 54 of the Land Acquisition Act, had been preferred by the respective appellants as against the impugned judgment allowing of an Application under Order 7 Rule 11 of CPC, as preferred by the respondents, consequent to which the references as made under Section 18 of the Land Acquisition Act by the Collector at the behest of the appellant has been rejected. In all these First Appeals, it's almost a similar question, which is involved consideration; hence, they are being decided together for the purpose of brevity.

2. As far as **First Appeal No. 35 of 2018** is concerned, though it too engages similar question but since there is pending substitution application being IA No. 15698/2018,

seeking substitution of the heirs of the deceased appellant, who is said to have met with the sad demise on 14.08.2018. Since the said Application has been preferred well within time and remained unopposed, the same would stand allowed, the learned counsel for the appellant of this Appeal is permitted to carry out the necessary amendment and bring on record the heirs, as described in para 4 of the said Substitution Application.

3. A very interesting and marginally controversial issue, which has emerged for consideration before this Court in the instant bunch of First Appeals as against the respective orders of allowing of the Applications under Order 7 Rule 11 of CPC, is as to what would be the parameters prescribed under sub Section (2) of Section 18, of the Land Acquisition Act, for the purposes of seeking a reference of a dispute under Section 18 in the light of the restrictions imposed by sub Section (2) of Section 18 of the Land Acquisition Act. Section 18 of the Land Acquisition Act is extracted hereunder:-

“18 Reference to Court. □

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made, □

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”

4. This Court would be more concerned with regard to Section 18(2) of the Land Acquisition Act, as to what would be the period prescribed for seeking a reference under the proviso as contained to Section 18(2) of the Act. Sub Section (2) of Section 18 of the Land Acquisition Act and the proviso as contained therein, has to be splitted in two parts for its interpretation as they both pertained to deal with different expression of law altogether. The first proviso (a) to sub Section (2) of Section 18 provides of seeking of a reference within six weeks from the date of the award in relation to those claimants or the land losers, **who were present or represented before the Collector.**

5. The instant issue in these appeals will not be falling within the proviso (a) to sub Section (2) of Section 18 of the Act, but rather the appellants have sought to bring their case within the ambit of proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act.

6. He contends, that the period of limitation for the purposes of seeking reference at their behest would start running from the date when he was in receipt of the notice from the Collector, about rendering of the award as contemplated under Section 12(2) of the Act and its only upon the receipt of the notice from the Collector, the cause of action for him would accrue to seek a reference within six months from the date of Collector's award, whichever period shall first expire.

7. Brief facts, as argued by the learned counsel for the appellants is that in the instant First Appeals, which have been preferred by the appellants as against the impugned judgment dated 15.12.2017, as respectively decided in land acquisition cases, relating to each of the First Appeal, which are listed today, primarily, the learned Court of Additional District Judge, Vikas Nagar, Dehradun, had decided the LA cases at the stage while deciding issue No. 1, pertaining to the implications of Order 7 Rule 11 and has held that the references as sought by the present appellants would be barred by the provisions contained under Order 7 Rule 11D, because of there being a bar created by law of entertaining the reference in the light of the proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act.

8. Order 7 Rule 11(d) of CPC creates a restriction, that no proceeding could be entertained when the same is barred by any law. The law, in the instant First Appeals would be in the context of limitation which has been prescribed under the proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act. The question would be, as to what would be the actual the cut off period of six months for seeking reference and when would it start running and from which date!

9. The appellants have come up with the case in the First Appeals that since there were no notices issued to them by the Collector under Section 12(2), hence the period for seeking reference of dispute would start running for them only when the notices are issued by the Collector and not

prior to it, which according to the appellants would be actual cut off for limitation to such reference.

10. On the contrary, it has been argued by the learned counsel for the respondents, that the aforesaid argument of the learned counsel for the appellant may not be tenable, for the reason being that after the award having being rendered on 07.03.2013 by the Collector, in fact, since the appellant after getting the knowledge of the same have received the money as it was awarded by the Special Land Acquisition Officer on 01.10.2014 and hence for all practical purposes, the purpose of notice as contemplated under the proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act would only attribute to the knowledge being imparted for the purposes to the person seeking reference under sub Section (2) of Section 18 of the Land Acquisition Act.

11. It has been argued that the knowledge would be attributed to the appellants as soon as they were in receipt of the money in pursuance to the award which was rendered by the Special Land Acquisition Officer and if after the receipt of the amount, as such, in question, if the reference is not sought within six months from the date of Collector's award, the period of preferring of a reference would be deemed to have expired and since the provisions of the Limitation Act is not applicable, the said period cannot be extended under law.

12. The learned counsel for the appellants have consistently harped upon the ground as it has been taken by them in the Memorandum of Appeal and particularly

confined to from the perspective of the implications contained under Section 12(2) of the Land Acquisition Act, that since they were not noticed with the award by the Collector, the preference of a reference proceedings at a belated stage, will not be barred by the provisions contained under proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act, and as such allowing of the Application under Order 7 Rule 11 of CPC by the impugned order would be bad.

13. If the said argument of the learned counsel for the appellants is appreciated in the context of the observations, which have been made by the impugned order as it was passed in the respective land acquisition cases, the appellants have consistently taken a stand with regard to the implications of Section 12(2) of the Act, which has been answered by the Court of Additional District Judge, observing thereof that immediately after the award was rendered by the Collector, the notice, as contemplated under Section 12(2) of the Act was issued to the appellants and not even that, they have also further proceeded to accept the amount, thus their cause would fall under clause (b) of sub Section (2) of Section 18 of the Act.

14. Let us even for the time being presume, that even if the notice was not issued under Section 12(2) of the Act, though in fact it is contrary to the facts and the finding as it has been recorded by the impugned order, the knowledge for seeking a reference under Section 18 qua the appellants would run from the date when they were in actual receipt of the awarded amount by the Special Land Acquisition Officer. This Court is of the opinion, that the reference of the term

“notice”, as made under the 2nd proviso (b) of sub Section (2) of Section 18 of the Land Acquisition Act has to be logically construed as to be the **“knowledge”** to the land-losers about the award having being rendered and if the appellants were at all aggrieved by the quantification, they could have sought a reference within the specified time frame as provided under sub Section (2) of Section 18 of the Land Acquisition Act and if the same has not made within the period prescribed therein, the time period of six months of seeking a reference would stand expired qua the appellants and the reference cannot be entertained on account of there being specific statutory bar being created because the provisions of Section 5 of the Limitation Act, would not be applicable for seeking the reference once particularly the provision itself is a self contained provision prescribing the upper period of limitation for seeking a reference as against the impugned award, if at all the appellants were aggrieved by the award rendered by the Special Land Acquisition Officer.

15. The Hon’ble Apex Court, by the bench of three judges in the matters of ***State of Punjab Vs. Mst. Qaisar Jehan Begum and another***, as reported in **AIR 1963 SC 1604**, has held in its para 5, which is extracted hereunder that in its logical literal and mechanical construction of the words ‘six months’ from the date of Collector’s award as occurring in the second part of the proviso to sub Section (2) of Section 18 of the Land Acquisition Act, has had to be actually or constructively determined as to being an essential requirement for a fair and natural justice and the expression of the proviso must be the date when the award

is either communicated to the parties or is known by him either actually or constructively.

“5. As to the second part of clause (b) of the proviso, the true scope and effect thereof was considered by this court in Raja Harish Chandra's case. It was there observed that a literal and mechanical construction of the words “six months from the date of the Collector's award” occurring in the second part of clause (b) of the proviso would not be appropriate and “the knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice, the expression ... used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively”. Admittedly the award was never communicated to the respondents. Therefore the question before us boils down to this. When did the respondents know the award either actually or constructively? Learned counsel for the appellant has placed very strong reliance on the petition which the respondents made for interim payment of compensation on December 24, 1954. He has pointed out that the learned Subordinate Judge relied on this petition as showing the respondents' date of knowledge and there are no reasons why we should take a different view. It seems clear, to us that the ratio of the decision in Raja Harish Chandra case (supra) is that the party affected by the award must know it, actually or constructively, and the period of six months will run from the date of that knowledge. Now knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party under Section 12(2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it or not. Similarly when a party is present in court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of the essential contents of the award. Looked at from that point of view, we do not think that it can be inferred from the petition dated December 24, 1954 that the respondents had knowledge of the award. One of the respondents gave evidence before the learned Subordinate Judge and she said:

“The application marked as Ex. D-1 was given by me but the amount of compensation was, not known to me, nor did I know about acquisition of the land. Chaudhari Mohd. Sadiq, my Karinda had told me on the day I filed

the said application that the land had been acquired by the Government.”

This evidence was not seriously contradicted on behalf of the appellant and the learned Subordinate Judge did not reject it. It is worthy of the note that before the Collector also the appellant did not seriously challenge the statement of the respondents that they came to know of the award on July 22, 1955 the date on which the compensation was paid. On the reply which the appellant filed before the learned Subordinate Judge there was no contradiction of the averment that the respondents had come to know of the award on July 22, 1955. That being the position we have come to the conclusion that the date of knowledge in this case was July 22, 1955. The application for a reference was clearly made within six months from that date and was not therefore barred by time within the meaning of the second part of clause (b) of the proviso to Section 18 of the Act.”

16. If the said expression given by the Hon’ble Apex Court is read in the context of facts and circumstances of the present cases, the impugned order observes, that the grounds taken by the appellants about the non compliance of the issuance of notice under sub Section (2) of Section 12 the Land Acquisition Act, is belied from the facts because of the fact, that as soon as the award was rendered by the Collector, and the notices were sent to them is not that only apart from it even if for the time being; though not accepting the same if it is taken that the notices were not issued, then too, in the light of para 5 of the Hon’ble Apex Court’s judgment as rendered, by the three Judges Bench, it has observed, that the purpose of use of word ‘notice’ under the 2nd proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act, since it principally means that it is actually the knowledge, which has to be construed as to be the foundation to determine the period of limitation as prescribed for the purposes of seeking reference under Section 18 of the Land Acquisition Act.

17. The Hon'ble Apex Court, in its para 5 was dealing with the issue in the context of sub Section (2) of Section 12 of the Act also which has been determined, that obviously the period as fixed, would here has to be construed from the date of the knowledge of the contents of the award and not from the date of actual issuance of notice; the "notices", in its literal meaning has been determined as to be the "knowledge", accruing to the appellant and not the actual receipt or issuance of notice.

18. Here the knowledge in the case of the appellants would be construed from the date when they have voluntarily and admittedly had accepted the awarded amount by the Special Land Acquisition Officer and had not preferred the reference under Section 18 even within the period of six months from the date of acceptance of the award. Hence, in view of the aforesaid judgment of the Hon'ble Apex Court, where it has laid down that no benefit of limitation is to be extended since it is not contemplated under the Act, the reference under Section 18 is beyond the period of six months, even under proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act, hence it could not have been made in favour of the appellants. Consequently, in the light of the aforesaid principles of the Hon'ble Apex Court, the allowing of Application under Order 7 Rule 11 of CPC of the respondents cannot be said to be unjustified or illegal calling for any interference.

19. Almost an akin view has been taken in yet another judgment rendered by the Hon'ble Apex Court as reported in **1996 (9) SCC 414, Officer on Special Duty (Land Acquisition) and Another Vs. Shah Manilal Chandulal**

and others, the Hon'ble Apex Court in the said judgment, in para 11 of the aforesaid judgment has dealt with that the Collector performs statutory functions under the Act, which includes making of an award under Section 18 and issuing of the notices to the land losers under Section 12(2) of the Act. Consequently, its based upon the aforesaid facts and circumstances with respect to attraction of the provisions contained under Section 29(2) of the Limitation Act, in the context of the provisions contained under sub Section (2) of Section 18 of the Land Acquisition Act, the Hon'ble Apex Court, in para 17 and 18 of Shah Manilal (*supra*), has observed that since the provisions contained under sub Section (2) of Section 18 of the Land Acquisition Act is a self contained special provision, the provisions of Limitation Act, would not be applicable and if any reference is being sought beyond the aforesaid period prescribed under the proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act, that cannot be made beyond the period of six months from the date of the knowledge of the award. Para 11, 17 and 18 of the aforesaid judgment are extracted hereunder:-

11. The question emerges: whether the LAO/Collector acts as a court? Section 3(d) defines 'Court' to mean the principal civil court of original jurisdiction or a principal judicial officer within any special local limits appointed thereunder to perform the functions of the court under the Act. 'Collector' has been defined in clause 3(c) to mean the Collector of district and includes a Deputy Commissioner etc. appointed by the appropriate Government to perform the functions of the Collector under the Act. He is variously called the Collector/LAO. It would thus be clear that the Act made a distinction between the Collector and the court. The Collector/LAO performs the statutory functions under the Act including the one making the award under Section 11 and referring a written application made under Section 18(1) of the Act to the court and complies with Sections 19 and 20 of the Act. The dichotomy of the Collector and the court cannot be lost sight of.

17. It is to be remembered that the Land Acquisition (Amendment) Act (68 of 1984) was enacted prescribing the limitation to exercise the power under Sections 4, 6 and 11 and also excluded the time occupied due to stay

granted by the courts. Taking cognizance of the limitation prescribed in proviso to sub-section (2) of Section 18, the provisions of the Limitation Act were not expressly extended. Though Section 29(2) of the Limitation Act is available, and the limitation in proviso to sub-section (2) of Section 18 may be treated to be special law, in the absence of such an application by Land Acquisition (Amendment) Act (68 of 1984), the Act specifically maintains distinction between the Collector and the court and the Collector/LAO performs only statutory duties under the Act, including one while making reference under Section 18. It is difficult to construe that the Collector/LAO while making reference under Section 18, as statutory authority still acts as a court for the purpose of Section 5 of the Limitation Act.

18. Though hard it may be, in view of the specific limitation provided under proviso to Section 18(2) of the Act, we are of the considered view that sub-section (2) of Section 29 cannot be applied to the proviso to sub-section (2) of Section 18. The Collector/LAO, therefore, is not a court when he acts as a statutory authority under Section 18(1). Therefore, Section 5 of the Limitation Act cannot be applied for extension of the period of limitation prescribed under proviso to sub-section (2) of Section 18. The High Court, therefore, was not right in its finding that the Collector is a court under Section 5 of the Limitation Act.”

20. The Hon’ble Apex Court in the aforesaid judgment has observed that in view of the specific limitation as provided under sub Section (2) of Section 18 of the Land Acquisition Act it has held that any reference which is being sought under Section 18 of the Act beyond the said prescribed period ought not to be entertained, because it would be legally barred in the light of the provisions contained under Order 7 Rule 11(d) of the Code of Civil Procedure.

21. In yet another judgment almost dealing with the same ratio, as reported in **2005(8) SCC 709, State of Karnataka Vs. Laxuman**, wherein the Hon’ble Apex Court was dealing with almost a similar situation with regard to the applicability of the provisions of limitation in the context of the provisions contained under sub Section (2) of Section 18 of the Land Acquisition Act and there too it has held that

its statute which reposes and would prevail and not an equitable piece of legislation which has to be logically construed by the Court for the purposes of extension of period of limitation for making reference of a dispute under Section 18, particularly when the provisions of the Limitation Act has been ousted to be made applicable in the proceedings under Section 18 of the Land Acquisition Act, it's the provision and intention of legislation, where the relevant expression has been dealt with by the Hon'ble Apex Court in para 16 and 28 of the said judgment, which are extracted hereunder:-

“16. The Division Bench of the High Court in *Special Land Acquisition Officer v. G.C. Paramraj* [ILR (1991) 2 Kant 1109] held that the Reference Court has not only the power, but also the duty, to consider whether the reference was time-barred and therefore invalid. It also held that Article 137 of the Limitation Act applies to an application under Section 18(3)(b) of the Act, a position approved by this Court. Then the Division Bench held that the power to make a reference under Section 18(3) subsists till the right of the party to make an application before the court seeking a direction to the Deputy Commissioner to make a reference exists and from this it followed that there is no power in the Deputy Commissioner to make a reference thereafter and if such a reference is made by the Deputy Commissioner it is invalid. An application to the court not made within 3 years after the expiry of 90 days from the date of the application under Section 18(1) of the Act, had to be rejected in limine. The Division Bench laid down the law thus:

“It is a well-recognised rule of construction that in order to ascertain the true meaning of a provision the intention of the legislature, as ascertainable from the language of the provision is the safe guide. From the amendment of Section 18, it is clear that in addition to the time-limit of 90 days fixed in Section 18, the legislature intended to create a duty in the Deputy Commissioner to make a reference within 90 days and further if within the said period the Deputy Commissioner/Land Acquisition Officer failed to make a reference, to confer a right on the party to make an application before the court seeking a direction to the Deputy Commissioner to make the reference. If that right is not exercised by the party within time, then the right ceases. Once the right of the party to get a reference is time-barred, it would be incongruous to hold that the Deputy Commissioner can still make a reference, at any time even after decades. In our view, it is reasonable to construe the provision to mean that the date on which the right of the party to get a reference comes to an end would also be the date on which the power of the Deputy Commissioner to make reference comes to an end. We are not persuaded to agree with the construction suggested for the respondent that the power of the officer continues even after the right of the party comes to an end and continues forever. It means even after an application made before the court after three years is rejected as the court is powerless to entertain a time-barred application, the Deputy Commissioner would have the power to make a reference, nullifying the

order of the court rejecting the application as time-barred. Such a construction would lead to a situation in which in one case the Deputy Commissioner could make a reference if he so desires and in another he could refuse to do so, if he so desires, in which even the party would be helpless. In other words, the Deputy Commissioner could act according to his whims and fancies. It is difficult to agree that the legislature intended to bring about such a result. Further, such a construction which brings about anomalous and incongruous results and gives ample scope for nepotism, favouritism and corruption, should not be given. We have come across several references made after two decades, particularly after several additional benefits were conferred by Amending Act 68 of 1984 amending the Land Acquisition Act. In our opinion, the correct view to take is, just as the party loses the right to the reference if no application is made within 90 days in terms of Section 18(2), the party, who had made an application within 90 days, loses the right to secure a reference if he fails to make an application within three years after the expiry of 90 days from the date of the reference application and consequently the power of the Deputy Commissioner/Land Acquisition Officer to make reference comes to an end. We are, therefore, of the view that the date of cessation of the Deputy Commissioner to make the reference also constitutes the date of cessation of power of the Deputy Commissioner. To put it in a nutshell the latter comes to an end on the date on which the former ends and the award of the Land Acquisition Officer becomes final. Therefore, neither the party can seek a reference nor the Deputy Commissioner can make the reference after the expiry of 3 years and 90 days from the date of the reference application.”

In view of some differences of opinion that subsequently arose mainly because of the failure to appreciate the reasoning of the Division Bench as above, the question was referred to a Full Bench. The Full Bench, by a majority, has overturned the above view. That decision of the Full Bench is reported as *Hanamappa v. Special Land Acquisition Officer* [ILR 1998 Kant 4071 (FB)] . That decision is challenged in Civil Appeal No. 1566 of 2001.

28. In the light of our discussion as above, we hold that the High Court was in error in holding that the Deputy Commissioner could make a reference even after the expiry of three years and 90 days from the date of the application for reference made by the claimant within the time prescribed by Section 18(2) of the Act. We uphold the view of the High Court in *Paramraj case* [ILR (1991) 2 Kant 1109] that the remedy having become barred the right could not thereafter be enforced. In that context, we hold that the claimant while approaching the court under Section 18(3)(b) of the Act would not be entitled to invoke Section 5 of the Limitation Act. In the light of these, we allow these appeals and set aside the orders of the High Court. We dismiss the applications for reference made by the claimants. We also uphold the view of the Land Acquisition Court that a reference made beyond the expiry of three years and 90 days from the date of application for reference by the Deputy Commissioner is incompetent. We hold that the respondents are not entitled to claim any enhancement by recourse to Section 18 of the Act. In the circumstances we make no order as to costs.”

22. The Hon’ble Apex Court has ultimately held that the reference made by the claimants within the time prescribed by Section 18(2), would only be legally tenable and it

cannot be extended by exercising powers or attracting the provisions contained under Section 5 or under sub Section (2) of Section 29 of the Limitation Act and if any reference is made beyond the period prescribed i.e. six months under the 2nd proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act, would be barred by law and no right would accrue thereafter to be enforced by the claimants by seeking a reference under Section 18 of the Act.

23. On the other hand, the learned counsel for the appellants have made reference to the judgment as reported in **2010 (3) SCC 545, *Bhagwan Das and others Vs. State of Uttar Pradesh and others***. It is two judges bench, judgment and quite obviously, under the legal precedence, it will not have an overriding effect to the judgment as rendered by a larger bench. The Hon'ble Apex Court in the said judgment has been dealing with the impact of the proviso to clause (b) of Section 18 of the Land Acquisition Act in the context of the provisions contained under Section 11 and 45 determining the limitation period for seeking reference to the Court, it was altogether a different issue than the one at hand.

24. In the said case, it was held that expression contemplated by law has to be read to mean six months from the date of actual or constructive knowledge of essential contents of the award. The expression has not to be interpreted literally because as such the interpretation leads to result in case if the reference is denied merely because of the bar being created under the proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act.

25. In fact, in this judgment, the principle which has been laid down in para 25 to 28 which are extracted hereunder, would be rather read in contravention to the argument as it has been extended by the learned counsel for the appellant for the reason being that this judgment retreats the fact that the period of six months for the purposes of seeking a reference under Section 18 has to be rationally construed from the date of the knowledge. The date of knowledge has been held that it plays a predominant role rather than the notice under Section 12(2) of the Act. Here, in the instant appeals, the knowledge would obviously mean the knowledge attributed to the appellants when they have derived the respective financial benefit of the compensation determined by the SLAO and not from the date when the so-called expected notice was required to be served by the Collector to the appellant under Section 12(2) of the Act. The relevant paragraphs 25 to 28 of the aforesaid judgment are extracted hereunder:-

“25. Invariably, the land-loser is required to make an application under Section 18 of the Act to get the market value as compensation. The land-loser does not get a right to seek reference to the civil court unless the award is made. This means that he can make an application seeking reference only when he *knows* that an award has been made.

26. If the words six months from the “date of the Collector's award” should be literally interpreted as referring to the date of the award and not the date of knowledge of the award, it will lead to unjust and absurd results. For example, the Collector may choose to make an award but not to issue any notice under Section 12(2) of the Act, either due to negligence or oversight or due to any ulterior reasons. Or he may send a notice but may not bother to ensure that it is served on the landowner as required under Section 45 of the Act. If the words “date of the Collector's award” are literally interpreted, the effect would be that on the expiry of six months from the date of award, even though the claimant had no notice of the award, he would lose the right to seek a reference. That will lead to arbitrary and unreasonable discrimination between those who are notified of the award and those who are not notified of the award.

27. Unless the procedure under the Act is fair, reasonable and non-discriminatory, it will run the risk of being branded as being violative of Article 14 as also Article 300-A of the Constitution of India. To avoid

such consequences, the words “date of the Collector's award” occurring in proviso (b) to Section 18 requires to be read as referring to the date of knowledge of the essential contents of the award, and not the actual date of the Collector's award.

28. The following position therefore emerges from the interpretation of the proviso to Section 18 of the Act:

(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make the application within six weeks from the date of the Collector's award itself.

(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking reference within six weeks of the receipt of the notice from the Collector under Section 12(2).

(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the notice under Section 12(2) from the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents of the award.

(iv) If a person interested receives a notice under Section 12(2) of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot claim the benefit of the provision for six months for making the application on the ground that the date of receipt of notice under Section 12(2) of the Act was the date of knowledge of the contents of the award.”

26. This Court is of the view that the sole legislative purpose of sub Section (2) of Section 12 of the Act, as argued by the learned counsel for the appellant, is the knowledge/notice. The knowledge is from the perspective that there cannot rather should not be a deprivation to the land losers or the land owners whose land has been acquired from seeking a reference under Section 18 and the knowledge which plays the vital role has to be rationally construed not merely because of the context of the provisions contained under sub Section (2) of Section 12 of the Land Acquisition Act, though which is otherwise decided against the appellants where under the impugned order it has been observed that the Collector did send a notice under sub Section (2) of Section 12 of the Act, but even for the time being, if it is presumed that the said notice was not served upon the appellants but then too it is a fact not

denied by the appellants that they have already received the compensation as awarded by the Special Land Acquisition Officer in relation to their respective parcel of land which was acquired.

27. In that eventuality, the date of the knowledge, even if it is to be construed in the case of the appellants, it would be at least from the date when they have received the money because payment of money and consequently would be proceeded by an award of the Special Land Acquisition Officer.

28. The payment of money will not be rather could not be an isolated act without the award being actually arithmetically determined by the Special Land Acquisition Officer under 11 of the Act. Here in the instant case, even after receiving the awarded amount on the respective date as referred to in the impugned order, the appellants have sat over it, and even after the expiry of six months period after accepting the awarded amount, they have not sought any reference as such the period prescribed under the proviso (b) to sub Section (2) of Section 18 of the Land Acquisition Act, will create an absolute bar qua the present appellant and no reference as such could be made in the light of the Hon'ble Apex Court judgment, where it has been consistently observed, that once the legislature provides a self inscribe provision of limitation, the provisions of Limitation Act by its implication has been ousted to be made applicable, hence no reference could be made beyond the period six months from the date of the knowledge which in the instant case as already determined above, would be date of receipt of the awarded amount. Thus, the allowing

of Application under Order 7 Rule 11(d) cannot be said to be unjustified in the light of the facts and circumstances of the case thus the denial to seek a reference do not suffer from any apparent legal or factual error which could call for any interference by this Court while exercising powers under Section 54 of the Land Acquisition Act.

29. Thus, the First Appeals lack merit and the same are, accordingly, dismissed.

30. Let a copy of this judgment be placed in all the connected matters.

(Sharad Kumar Sharma, J.)

28.11.2023

Mahinder/