

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFA No. 22 of 2016

Reserved on: 20.12.2025

Date of decision: 23.12.2025

Jalam Singh

.....Appellant

Versus

State of H.P. & Ors.

.....Respondents

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting?*

For the appellant:

Mr. B.N. Mehta, Advocate.

For the respondents:

Mr. Manoj Chauhan, Additional
Advocate General.

Sushil Kukreja, Judge

The instant appeal has been preferred by the appellant, who was respondent before the learned Court below against order dated 29.11.2012, passed by learned District Judge Kinnaur, Civil Division at Rampur, District Shimla, H.P. (hereinafter referred to as “the learned Reference Court”), in Case No. 4 of 2012, whereby reference petition filed by Jalam Singh (appellant herein) has been dismissed on account of limitation.

2. The brief facts of the case are that land in village Thana, Sub Tehsil Nankhari, District Shimla, H.P., was

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

acquired for construction of Tikkar-Jarol-Gahan-Nankhari-Khamadi road for public purpose. The Secretary (PWD) to the Government of Himachal Pradesh had issued Notification under Section 4 of the Land Acquisition Act (for short "the Act") vide No. P.B.W.BA.(7)81/04, dated 22.01.2005, which was published in the Rajpatra on 09.02.2005 and in two news papers i.e. 'Amar Ujala' on 20.02.2005 and 'Punjab Kesari' on 22.02.2005. The land of the petitioner/appellant, comprised in Khata Khatauni No. 55/235 min, Khasra No. 591, measuring 0-00-70 hectares, situated in mauza Thana, Sub-Tehsil Nankhari, District Shimla, H.P., was acquired for construction/widening of the Tikkar-Nankhari-Khamadi road alongwith, triple storeyed house. After the completion of acquisition proceedings, the Collector passed the award on 01.12.2005, vide case No. SML-1/2004.

3. The petitioner/claimant, feeling aggrieved with the award of the Land Acquisition Collector preferred a petition under Section 18 of the Act before the learned Reference Court for enhancement of the compensation amount, however, the learned Reference Court vide impugned order dated 29.11.2012 dismissed the petition

being time barred. The relevant portion of the aforesaid order reads as under:-

“Case called today. Sh. B.S. Thakur, Id. Counsel for petitioner is present. This case application was presented to LAO on 29.07.2011. Award has been announced on 01.12.2005. Notice u/s 12(2) has been issued on 20.04.2006, which was served on 24.04.2006. After receiving notice the case has been filed after 1923 days, which is time barred. Application under Section 5 of Limitation Act for the condonation of delay is not preferred to the Court of Land Acquisition Collector. Hence due to above reasons this case is rejected.”

4. The perusal of the aforesaid order shows that the reference petition was dismissed on the ground that claim petition was time barred by 1923 days' and application under Section 5 of the Limitation Act for condonation of delay was also not preferred. Record reveals that the petitioner had filed the application under Section 5 of the Limitation Act for condonation of delay in filing the petition on 29.07.2011, however, the learned Reference Court had passed the impugned order without passing any order on the application under Section 5 of the Limitation Act, rather, it was erroneously observed that application under Section 5 of the Limitation Act was not preferred before the Land Acquisition Collector and the petition was dismissed being time barred

without looking into the record of the case.

5. Since no order has been passed by the Reference Court on the application under Section 5 of the Limitation Act for condonation of delay filed by the petitioner, therefore, impugned order dated 29.11.2012, passed by learned Reference Court cannot be sustained and the same is liable to be set aside.

6. Hence, in view of aforesaid discussion, impugned order dated 29.11.2012, passed by learned Reference Court is set aside and the case is remanded back to the learned Reference Court for deciding the application under Section 5 of the Limitation Act for condonation of delay in accordance with law after giving reasonable opportunity of being heard to both the parties. Parties are directed to appear before the learned Reference Court on **16.01.2026**.

7. Needless to state that since the award pertains to the year 2005, learned Reference Court is directed to decide the case as expeditiously as possible and in any event not later than 30.06.2026.

8. In view of the above, the appeal is disposed of, so also pending application(s), if any.

Records be sent back forthwith.

(Sushil Kukreja)
Judge

23rd December, 2025
(raman)