

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.407 OF 2000

Rama s/o. Panda Dhade,
age 40 years, r/o. Shirol
Tq. Nilanga, died through Lrs.

- 1] Madhavrao Rama Dhade,
Age 67 years, occ.agri.,
- 2] Pralhad s/o. Rama Dhade,
Age 52 years, occ.Agri.,
- 3] Narayan s/o. Rama Dhade,
Age 42 years, occ.Agri.

All r/o. Shirol Wanjarwada,
Tq.Nilanga, District Latur. ..Appellants
Versus
The State of Maharashtra ..Respondent

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Mr.S.S.Manale, advocate for appellants

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CORAM : M.T. JOSHI, J.
DATE : JANUARY 08, 2015

JUDGMENT :

Heard both sides.

2] The only issue in the present appeal is regarding the limitation in filing the application under Section 18 of the Land Acquisition Act (for short "the Act") for reference of the dispute to the Court.

3] The provision of Section 12 and Section 18 of the Land Acquisition Act, 1894 are material which runs as under :-

"12. Award of Collector when to be final.-- (1) Such award shall be filed in the Collectors office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

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 person 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 Collectors 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 Collectors award, whichever period shall first expire."

4] The admitted facts on record would show that the notice under Section 12(2) of the Act was issued by the predecessor of the present appellant on 2nd January, 1986 without any copy of the award. The reference application was filed on 25th October, 1986. The record would further show that the deceased applicant applied for issuance of the certified copy of the award on 10th April, 1991 i.e. during the pendency of the land acquisition reference before the reference court and thereafter, filed the same on record.

5] Mr.Manale, learned counsel for the appellant relied upon the ratio of the decision in the case of *Premji Nathu* (cited supra). Paragraph 11 thereof would be material which runs as under :-

"11. The reason for providing six months from the date of the award for making an application seeking reference, where the applicant did not receive a notice under

Section 12(2) of the Act, while providing only six weeks from the date of receipt of notice under Section 12(2) of the Act for making an application for reference where the applicant has received a notice under Section 12(2) of the Act is obvious. When a notice under Section 12(2) of the Act is received, the landowner or person interested is made aware of all relevant particulars of the award which enables him to decide whether he should seek reference or not. On the other hand, if he only comes to know that an award has been made, he would require further time to make enquiries or secure copies so that he can ascertain the relevant particulars of the award. What needs to be emphasised is that along with the notice issued under Section 12(2) of the Act, the land owner who is not present or is not represented before the Collector at the time of making of award should be supplied with a copy thereof so that he may effectively exercise his right under Section 18(1) to seek reference to the Court."

6] Upon considering the ratio and the provisions as quoted above, it is clear that if no notice is issued, the claimant is required to file the application for reference within six months from the date of knowledge of passing of the award. In the present case, the claimant i.e. original appellant came to know of passing of the award on the date of the notice i.e. 2nd January, 1986. In the circumstances, when the notice was not accompanied by the copy of the award, the original appellant was required to seek the certified copy and file the application for reference within six months from the date of receipt of the notice. Admittedly, the reference is filed much later i.e. on 25th October, 1986. Therefore, the ratio in the case of *Premji Nathu* (cited supra) would not be applicable. In the circumstances, the reasoning give by learned Civil Judge Senior Division cannot be faulted with.

7] In the result, the appeal is dismissed with no order as to costs.

[M.T. JOSHI, J.]

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