

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 301 OF 2001

Gyanoba s/o Rama Bhatsangve,
Age : 90 years, Occu. Agri.,
R/o Karkheli, Taluka Udgir,
District Latur,
Since deceased, through Legal
Representative Kedari s/o Gyanoba
Bhatsangve, Age : 50 years,
Occu. Agriculture, R/o Karkheli,
Tq. Udgir, District Latur

APPELLANT

VERSUS

The State of Maharashtra,
through the Collector, Latur

RESPONDENT

Mr. H.B. Nandagavale, Advocate holding for Mr. V.G.
Sakolkar, Advocate for the appellant
Mr. S.P. Daund, A.G.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 22/01/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. The present appeal is preferred by the original claimant who had claimed enhancement in the compensation in land acquisition reference. The learned Additional District Judge, Latur has dismissed the reference

application on the ground of limitation.

3. The learned counsel for the appellant submits that no notice was issued either to the father of the appellant or the appellant himself when the land was acquired in the lifetime of appellant's father. Only when the compensation amount of Rs. 4560/- was received on 15th February, 1993 under protest, the present appellant came to know about the passing of the award. Therefore, he submits that the application for reference filed in the year 1994 was well within limitation.

4. The learned A.G.P. opposed the plea. He submitted that after eleven years from the date of passing of the award, the reference application was filed.

5. On the basis of above material on record and submissions advanced on behalf of both sides, the following point arises for my determination :-

"Whether the reference application was filed by the original claimant beyond the prescribed period of limitation ?"

My finding to the above point is in the affirmative.
The appeal is, therefore, dismissed without any order as to costs.

6. The provisions of section 18 of the Land Acquisition Act, 1894 run as follows :-

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."

7. The provisions of section 18 of the Land Acquisition Act and more specifically the provisions of clause (b) of sub-section (2) of section 18 thereof, would show that in case no notice is received by the owner of the property at all, then he has to file application for reference within a period of six months from the date of the Collector's award.

8. The learned Additional District Judge, on the basis of the record, has found that in the month of February, 1979 itself, the land was acquired by the respondent/State by private negotiations. It would be thus clear that in 1979 itself, the State had taken possession of the land by having the negotiations with the father of the present appellant. Thus, even though the provisions of clause (b) of sub-section (2) of section 18 of the Land Acquisition Act does not require any knowledge for barring the application after a period of six months from the date of the Collector's award, in the present case, positively, the father of the present appellant was aware of the acquisition of the land in February, 1979 itself. In the circumstances, there is no merit in the appeal since the reference application

was filed after eleven years of the passing of the award.

9. In the result, the appeal is dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

npj/fa301-2001