

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RFA No. 934 of 1996 (O&M)

Date of decision: 28.11.2015

Fateh Singh

..... Appellant

VS

The Land Acquisition Collector-cum-DRO, Jind
and others

..... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Ranjit Saini, Advocate, for the appellant.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal J.

The present appeal has been filed against the award of the learned court below, whereby the objections filed by the landowners were dismissed on account of delay.

Briefly, the facts are that land situated in revenue estate of village Safidon, Hadbast No.54, Tehsil and District Jind, was sought to be acquired by the State of Haryana for establishment of New Grain Market, Safidon, vide notification dated 14.8.1987, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'). It was followed by notification under Section 6 of the Act dated 12.8.1988. The Land Acquisition Collector (for short, 'the Collector') vide award no.2 dated 10.8.1990 assessed the market value of the acquired land @ ₹ 27/- per square yard. Aggrieved against the award of the Collector, the land owner filed objections, which were referred to the learned Additional District Judge, who keeping in view the material placed on record by the parties, dismissed the objections filed by the landowner being time barred vide award dated 3.2.1996. It is this award which is impugned in the present appeal.

Learned counsel for the appellant submitted that the other landowners, whose land was acquired vide same notification, have been awarded higher compensation, whereas only the appellant has been discriminated. He sent the objections by registered post on 18.9.1990 against the award dated 10.8.1990 for making reference to the learned Court below for assessment of fair compensation. The learned Court below vide award dated 3.2.1996, dismissed the same being time barred. He further submitted that when the appellant came to know about the passing of the award, he immediately filed the objections. It was submitted that the findings recorded by the learned court below that the reference filed by the landowner was time barred, are totally erroneous. He submitted that in terms of the provisions of Section 18 of the Act, the objections could be filed within six weeks from the date of award in case the land owners are present at the time of pronouncement of the award. The objections filed by the appellant should be considered within limitation.

On the other hand, learned counsel for the State submitted that delay in filing objections cannot be condoned. The learned court below has rightly rejected the claim of the appellant being time barred. There is no material on record to show that the objections were filed by the appellant on 18.9.1990. In fact those were received in the office of the Collector on 27.1.1994.

Heard learned counsel for the parties and perused the paper-book.

The facts, which are evident from the record are that notification under Section 4 of the Act was issued on 14.8.1987. The Collector announced the award on 10.8.1990. It is not denied by the appellant that he had received the compensation of the acquired land. The learned Court below dismissed the objections as time barred as those were received in the office of the Collector on 27.1.1994 much beyond the period prescribed for the same. No evidence was lead by the appellant before the Reference Court to show the objections were sent by post on 18.9.1990. There are no pleadings to that effect. Application for additional evidence was filed in this Court, which has been rejected by a separate order passed

today.

In the aforesaid factual matrix, the issue which arises for consideration by this Court is, as to whether the objections filed by the appellant are to be treated within time by considering the limitation from the date the appellant claimed that he has received the amount of compensation or from the date he admittedly had the knowledge of announcement of the award. The admitted case of the appellant is that he had filed the objections on 27.1.1994 and he had the knowledge of the announcement of the award by the Collector on 10.8.1990.

Section 18 of the Act is extracted below:

“ **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 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 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.”

The aforesaid section provides that in case any person interested does not accept the award, he may by written application to the Collector require that the matter be referred to the court. The objections can be regarding measurement of the land, the amount of compensation, the persons to whom it is payable or the apportionment of compensation amongst the persons interested. The application should contain the grounds

on which the award is objected to. Proviso to sub-section (2) of Section 18 of the Act provides for the period in which the objections could be filed. Clause (a) thereof provides that in case a person is present or represented before the Collector at the time of announcement of the award, the objections can be filed within six months from the date of the Collector's award. Clause (b) provides that in other cases, the objections can be filed within six weeks of the receipt of notice from the Collector under Section 12(2) of the Act or within six months from the date of Collector's award, whichever period expires first.

In Officer on Special Duty (Land Acquisition) and another v. Sham Manilal Chandulal and others, (1996)9 SCC 414, Hon'ble the Supreme Court considered the issue as to whether limitation provided for under Section 18(2) of the Act for filing objections can be extended and it was answered in the negative. Paragraphs 17 and 18 thereof are extracted below:

“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.” (emphasis supplied).

The same view was followed in State of Karnataka v. Laxuman, (2005) 8 SCC 709 and by this Court in RFA No. 2513 of 1992 – Harbans Singh vs The State of Punjab decided on 8.8.2014, RFA No. 805 of 2006- Raghuwansh Chaprana and others vs The State of Haryana and others, decided on 13.8.2014, RFA No. 4643 of 2013 - Lajwanti and others vs State of Punjab and another decided on 18.9.2014 and RFA No. 3095 of 2015 - M/s K&D Real Estate & Builders vs State of Haryana and others, decided on 28.7.2015.

In view of the aforesaid enunciation of law, the delay in filing of objections against the award of the Collector cannot be condoned. In the case in hand, the appellant was well aware of the acquisition proceedings. The award was passed by the Collector on 10.8.1990. The appellant filed the objections on 27.1.1994, which were clearly beyond the period prescribed under the Act.

Considering the aforesaid factual matrix, I do not find that any illegality has been committed by the learned Reference Court in dismissing the objections filed by the appellant as time barred. Accordingly, the appeal is dismissed.

28.11.2015
vs

(Rajesh Bindal)
Judge

(Refer to Reporter)