

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

CWP No.9532 of 2014
Date of decision: 6.5.2015

Lal Singh and others

-----Petitioners

Vs.

State of Haryana and others

----Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present:- Mr. Vijay Dahiya, Advocate for the petitioners in
CWP Nos.376 and 9532 of 2014.

Mr. Chander Pal Tiwana, Advocate for the petitioners
in CWP Nos.3395 and 3402 of 2014.

Ms. Palika Monga, DAG, Haryana.

Ajay Kumar Mittal,J.

1. This order shall dispose of CWP Nos.376, 9532, 3395 and 3402 of 2014 as the issue involved in all the petitions is identical. However, the facts are being extracted from CWP No.9532 of 2014.

2. CWP No.9532 of 2014 has been filed seeking quashing of order dated 24.6.2013, Annexure P.3 passed by respondent No.5 – Land Acquisition Collector-cum-District Revenue Officer, Kaithal whereby application under Section 28A of the Land Acquisition Act, 1894 (in short, “the 1894 Act”) for enhancement of compensation has been dismissed. Further, direction has been sought to the respondents to release the same amount of enhanced compensation as awarded by the Reference Court, Kaithal vide Annexure P.2 dated 2.8.2010.

3. A few facts relevant for the decision of the controversy

involved as narrated in CWP No.9532 of 2014 may be noticed. Notification under Section 4 of the Act was issued by the Government of Haryana, Irrigation Department for acquiring land in Village Bhagal, Tehsil Gulha, District Kaithal for a public purpose, namely, for construction of Hansi Butana Branch Multipurpose Link Channel, which was followed by notification under Section 6 of the 1894 Act on 13.9.2005. Vide award dated 10.1.2006, the Land Acquisition Collector fixed the rate of acquired land at ₹ 6.5 lacs per acre for all types of land in Village Bhagal, Tehsil Gulha, District Kaithal. Dissatisfied with the award, the land owners filed references under Section 18 of the 1894 Act which were consolidated by the reference Court, Kaithal and decided vide award dated 2.8.2010, Annexure P.2 by enhancing the value of the acquired land from ₹ 6.5 lacs to ₹ 7.5 lacs per acre with all statutory benefits. RFA No.2295 of 2011 (*Smt.Nimbo and others vs. State of Haryana and others*) was filed arising out of the same notifications which was disposed of by this Court vide order dated 6.10.2012 in the same terms as in RFA No.1714 of 2009 (*State of Haryana and another vs. Pala Ram and others*). The petitioners applied for certified copy of the award passed by the Reference court to file application under Section 28-A of the 1894 Act as limitation period for filing reference under Section 18 of the 1894 Act had already expired. The application under Section 28-A of the 1894 Act was filed on 18.11.2010 before the Land Acquisition Collector, Kaithal. The said application was kept pending for a long time on the pretext of pendency of Regular First Appeal before this Court. Vide order dated 24.6.2013, Annexure P.3, the application was dismissed by the Land Acquisition Collector as time barred. Hence the

instant petitions.

4. We have heard learned counsel for the parties.

5. Learned counsel for the petitioners relying upon judgments of the Apex Court in *N.Balakrishnan vs. M.Krishnamurthy*, 1998(7) SCC 123 and *Tukaram Kana Joshi and others through Power of Attorney Holder vs. M.I.D.C. and others*, Civil Appeal No.7780 of 2012, decided on November 2, 2012 submitted that the delay in filing application under Section 28-A of the 1894 Act was liable to be condoned.

6. On the other hand, learned State Counsel placed reliance on judgment of the Apex Court in *Popat Bahiru Govardhane and others vs. Special Land Acquisition Officer and another*, (2013) 10 SCC 765 and submitted that there being no specific provision with regard to condonation of delay under Section 5 of the Limitation Act, 1963 (in short, “the 1963 Act”), the application has been rightly rejected by the Land Acquisition Collector being time barred.

8. Section 28-A(1) of the Act reads as under:

“28-A. Redetermination of the amount of compensation on the basis of the award of the court.

—(1) Where in an award under this Part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under Section 4 sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the court require that the amount of

compensation payable to them may be redetermined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.”

9. A perusal of the above provision shows that an application for re-determination of compensation is to be filed within three months from the date of the award of the court. The proviso further provides that the period of limitation is to be calculated excluding the date on which the award is made and the time requisite for obtaining the copy of the award. As the Land Acquisition Collector is not a court and acts as a quasi judicial authority while making the award, the provisions of the 1963 Act would not apply and therefore, the application under Section 28-A of the 1894 Act has to be filed within the period of limitation of three months from the date of the award of the Court as prescribed under Section 28-A of the 1894 Act. In the present case, notification under Section 4 of the 1894 Act was issued on 18.8.2005 followed by notification under Section 6 of the said Act on 13.9.2005. The award was announced by the Land Acquisition Collector on 10.1.2006. Reference under section 18 of the 1894 Act was filed on 2.11.2007 which was decided by the Court on 2.8.2010. The application under Section 28-A of the 1894 Act was filed on 18.11.2010 i.e. beyond the period of limitation.

10. The Apex Court while delving into identical issue in ***Popat***

Bahiru Govardhane's case held as under:-

“13. This Court in [Union of India & Ors. v. Mangatu Ram & Ors.](#) [(1997) 6 SCC 59]; and [Tota Ram v. State of U.P. & Ors.](#) [(1997) 6 SCC 280], dealt with the issue involved herein and held that as the Land Acquisition Collector is not a court and acts as a quasi judicial authority while making the award, the provisions of the 1963 Act would not apply and, therefore, the application under Section 28A of the Act, has to be filed within the period of limitation as prescribed under Section 28A of the Act. The said provisions require that an application for re-determination is to be filed within 3 months from the date of the award of the court. The proviso further provides that the period of limitation is to be calculated excluding the date on which the award is made and the time requisite for obtaining the copy of the award.

14 & 15. xx xx xx xx xx xx xx xx

16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “dura lex sed lex” which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” (See : [The Martin Burn Ltd. v. The Corporation of Calcutta](#), AIR 1966 SC 529; and [Rohitas Kumar & Ors. v. Om Prakash Sharma & Ors.](#), AIR 2013 SC 30).”

11. Adverting to the judgments in *N.Balakrishnan* and *Tukaram*

Kana Joshi's cases (supra) relied upon by learned counsel for the petitioners, in those cases, the parameters to be considered while condoning the delay under Section 5 of the 1963 Act was under consideration. In view of pronouncement of Apex Court in **Popat Bahiru Govardhane's** case (supra) wherein it has been laid down that Section 5 of the 1963 Act has no applicability to provisions of Section 28A of the 1894 Act, no benefit can be derived by the learned counsel for the petitioners from the judgments relied upon.

12. In view of the above, the delay in the present case could not be condoned. Consequently, finding no merit in the petitions, the same are hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 06, 2015
'gs'

(Rekha Mittal)
Judge