

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

RFA No. 9659 of 2014 (O&M)

Date of decision: 26.8.2015

Kulbir Singh and others

..... Appellants

VS

District Revenue Officer-cum-Land Acquisition Collector, Ambala

..... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. J.S. Cooner, Advocate, for the appellants.

Mr. Arun Beniwal, Deputy Advocate General, Haryana.

Rajesh Bindal J.

This order will dispose of three appeals bearing RFA Nos.9659, 10573 and 10814 of 2014, as common questions of law and facts are involved therein.

The present appeals have been filed against the award dated 12.9.2014, whereby the learned court below dismissed the objections filed by the landowners on account of delay.

Brief facts of the case are that the State of Haryana vide notification dated 27.8.1997, issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') sought to acquire land situated within the revenue estate of village Tundli, Hadbast No.47, Tehsil and District Ambala, for defence purposes. Notification under Section 6 of the Act was issued on 17.9.1998. The Land Acquisition Collector (for short, 'the Collector') vide award dated 14.9.2000 assessed the market value of the acquired land @ ₹ 2,20,000/- per acre for chahi and ₹ 1,70,000/- per acre for other kinds of land. Aggrieved against the award of the Collector, the landowners 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 landowners being time barred, vide award dated 12.9.2014. It is this award which is impugned in the

present set of appeals.

Learned counsel for the landowners submitted after passing of the award by the Collector in the year 2000, the appellants had engaged Shri Sham Lal, Advocate, for filing references but when the award was passed on 17.7.2000, in the case of other landowners, on enquiry, they came to know that reference on their behalf had not been filed. Then on 17.10.2012, the appellants filed references and the same were withdrawn by them on 13.12.2013 with liberty to file fresh references. On 10.2.2014/17.2.2014, the references had been again filed by the appellants. It was further pleaded that the findings recorded by the learned court below that the references filed by the landowners were time barred, are totally erroneous.

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 appellants being time barred.

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 27.8.1997. The Collector announced the award on 14.9.2000/10.9.2001. It is admitted case of the appellants that after passing of the award, the appellants came to know about the said award but still filed objections on 17.10.2012 more than eleven years thereafter, which were dismissed as withdrawn and again filed on 10.2.2014/17.2.2014.

In the aforesaid factual matrix, the issue which arises for consideration by this Court is, as to whether the objections filed by the appellants are to be treated within time by considering the limitation from the date the appellants claimed that when the Collector had passed the award or from the date they admittedly had the knowledge of announcement of the award of the reference court.

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 appellants were well aware of the acquisition proceedings. The appellants had the knowledge of the passing of the award dated 14.9.2000, and the objections were admittedly filed after twelve years thereafter on 17.10.2012, which were clearly beyond the period of six weeks from the date of knowledge of the award.

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 appellants as time barred.

The appeals are dismissed.

(RAJESH BINDAL)
JUDGE

26.8.2015

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