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HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.131 of 2014

Karnam Narsingh Swami, S/o Late Mutyalu, aged about 62 years, R/o Village Maddedh Town, Tahsil Bhopalpattnam, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)

---- Applicant

Versus

1. State of Chhattisgarh, Through Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Civil and Revenue Distt. Raipur (C.G.)
2. Collector, Beejapur, Police Station Beejapur, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)
3. Sub-Divisional Officer (Revenue), Bhopalpattnam, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)

---- Respondents

Civil Revision No.135 of 2014

1. Smt. Desu Devamma, Wd/o Late Madnaiyya, aged about 70 years,
2. Desu Ravishanker, S/o Late Madnaiyya, aged about 40 years;

Both R/o Village Maddedh Town, Tahsil Bhopalpattnam, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)

---- Applicants

Versus

1. State of Chhattisgarh, Through Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Civil and Revenue Distt. Raipur (C.G.)
2. Collector, Beejapur, Police Station Beejapur, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)
4. Sub-Divisional Officer (Revenue)-cum-Land Acquisition Officer, Bhopalpattnam, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)

---- Respondents

AND

Civil Revision No.136 of 2014

Jain Satyanarayan, S/o Late Jagannathan, aged about 60 years, R/o Village Maddedh Town, Tahsil Bhopalpattnam, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)

---- Applicant

Versus

1. State of Chhattisgarh, Through Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Civil and Revenue Distt. Raipur (C.G.)
2. Collector, Beejapur, Police Station Beejapur, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)
3. Sub-Divisional Officer (Revenue)-cum-Land Acquisition Officer, Bhopalpattnam, Civil Distt. Dantewada, Revenue Distt. Beejapur (C.G.)

---- Respondents

For Petitioners:	Mr. Manoj Paranjpe, Advocate.
For State/Respondents:	Mr. Sameer Behar, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/07/2016

1. Since in all these civil revisions, common question of fact and law is involved, they are heard together and are being disposed of by this common order.
2. For the sake of convenience, facts of C.R.No.131/2014 are taken-up.
3. The Land Acquisition Officer passed an award on 30-6-2011 and that award was approved by the Collector on 2-7-2011. Since notice under Section 12(2) of the Land Acquisition Act, 1894 (for short 'the Act of 1894') was not issued to the persons interested – the petitioners herein / land owners, after having

acquired the knowledge of passing of award by the Collector, they made an application for certified copy of the award which the petitioners received on 5-6-2014, thereafter, on 9-7-2014, they moved an application before the learned Collector under Section 18 of the Act of 1894 for referring the dispute to the District Judge for determination of compensation. The Collector by its impugned award rejected the same holding it to be barred by limitation relying upon Section 18(2)(b) of the Act of 1894. Feeling aggrieved against the order passed by the Collector rejecting the application for reference to the District Judge, this batch of civil revisions has been filed.

4. Mr. Manoj Paranjpe, learned counsel appearing for the petitioners / land owners, would submit that the learned Collector is absolutely unjustified in rejecting the application under Section 18 of the Act of 1894 by holding it to be barred by limitation. He would further submit that at the time of making award under Section 11 of the Act of 1894, the petitioners were neither present in person nor any of their representatives was present and no notice under Section 12 (2) of the said Act was served upon the petitioners informing them about passing of the award dated 30-6-2011 and therefore, the limitation would start running in accordance with Section 18(2)(b) of the Act of 1894. By virtue of Section 18(2)(b) of the Act of 1894, the petitioners were entitled to prefer the application under Section 18 within six weeks from the date of constructive knowledge of passing of

award by the Collector. He would also submit that in the instant case, the petitioners came to know about the knowledge of the award on 5-6-2014 and on 9-7-2014, the application for reference was filed, as such, the order impugned deserves to be set aside.

5. On the other hand, learned State counsel would support the impugned order as also the award and submit that the learned Collector is justified in rejecting the application as barred by limitation.
6. I have heard learned counsel for the parties, perused the order impugned as also the award and gone through the record with utmost circumspection.
7. It would be advantageous to notice Section 18 of the Act of 1894 which provides for Reference to Court and the period of limitation for making reference to the District Judge. Section 18 of the Act of 1894 reads thus,

“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 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 the 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.”

8. The issue in question has been considered by Their Lordships of the Supreme Court in umpteen numbers of cases. Few of them may be noticed herein profitably.
9. In the matter of **State of Punjab v. Qaisar Jehan Begum and another**¹, after taking note of the case of **Harish Chandra Raj Singh v. Land Acquisition Officer**², the Supreme Court has held that a literal and mechanical construction of the words “six months from the date of the Collector's award” occurring in the second part of clause (b) of the proviso would not be appropriate and “the knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice, the expression ... used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively”. It has further been held that knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. If the award is communicated to a party under Section 12(2) of the Act, the

1 AIR 1963 SC 1604

2 AIR 1961 SC 1500

party must be obviously fixed with knowledge of the contents of the award whether he reads it or not. Similarly when a party is present in court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. It has been finally held that knowledge of the award must mean knowledge of the essential contents of the award.

10. In a very recently pronounced judgment, Their Lordships of the Supreme Court in the matter of **Rajasthan Housing Board v. New Pink City Nirman Sahkari Samiti Limited and another**³ have clearly held that limitation period of six months from date of award for making reference to court would commence from date of actual or constructive knowledge of award. Their Lordships after taking note of earlier decisions on the point by the Supreme Court held in paragraphs 13 and 16 as under: -

“13. The date of award used in proviso (b) to Section 18(2) of the Act must be the date when the award is either communicated to the party or known by him either actually or constructively.

16. Thus, the constructive knowledge of the award is fairly attributable to it when it was so passed. Constructive notice in legal fiction signifies that the individual person should know as a reasonable person would have. Even if they have no actual knowledge of it. Constructive notice means a man ought to have known a fact. A person is said to have notice of a fact when he actually knows a fact but for willful abstention from inquiry or search which he ought to have made, or gross negligence he would have known it. Constructive notice is a notice inferred by law, as distinguished from actual or formal notice; that which is held by

3 (2015) 7 SCC 601

law to amount to notice. The concept of constructive notice has been upheld by this Court in Harish Chandra².”

11. It is not in dispute that on 30-6-2011, the draft award was passed by the Land Acquisition Officer which the Collector has approved on 2-7-2011. The proceeding would show that neither the petitioners were present on the said date nor the Collector did issue any notice under Section 12 (2) of the Act of 1894 to such of the persons interested informing about passing of the award. After having obtained knowledge of the award, the petitioners applied for certified copy of the award which they received on 5-6-2014 and they have filed the application for reference on 9-7-2014. The said application was opposed by the State.
12. Perusal of the order of the Collector would show that the learned Collector has relied upon Section 18(2)(a) of the Act of 1894 and thereafter, the application for reference has been rejected without considering the facts of the case. It has not been considered as to when the copy of the award was served to the petitioners or when the petitioners / land owners came to the knowledge of passing of award by the Collector, whereas it has been specifically pleaded in the application that the petitioners came to know about passing of the award on 5-6-2014.
13. Thus, in the case in hand, the petitioners came to know about

the award on 5-6-2014 and thereafter, they made a reference on 9-7-2014 and as such, it is within the period of limitation prescribed under Section 18(2)(b) of the Act of 1894. Therefore, the learned Collector is absolutely unjustified in rejecting the application being barred by time.

14. In view of the aforesaid discussion, the civil revisions are allowed and the impugned orders are set aside. It is held that the claimants / land owners have filed their applications within the period prescribed under Section 18(2)(b) of the Act of 1894. The Collector, Bijapur is directed to consider the applications under Section 18 of the said Act, which are held to be within time, and make reference to the District Judge in accordance with Section 18 of the Act of 1894. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge