

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

FIRST APPEAL NO. 342 OF 2001

Zafar Ali Khan s/o Abdul Sattar Ali Khan,
Age 42 yrs., Occ. Agri., Resident of Dubai,
Through GPA Altaf Ilahi Khan,
s/o Ahmed Khan, Age 54 yrs., Occ. Agri.,
Resident of Nanded.

**....Appellant.
(Ori. Claimant)**

Versus

- 1] The State of Maharashtra
through Collector Nanded
- 2] The Special Land Acquisition Officer,
P.T. MTW-2 Nanded.
- 3] Shivram s/o Nagoji,
Age 50 yrs., Occ. Agri. Resident of
Tuppa, Tal. & Dist. Nanded.

**....Respondents.
(Ori. Respdts)**

Mrs. A.N. Ansari, Advocate for appellant.

Mr. K.N. Lokhande, AGP for respondent Nos. 1 & 2.

CORAM : T.V. NALAWADE, J.
DATED : 18th January, 2016.

JUDGMENT :

- 1) The appeal is filed against judgment and award of LAR No. 67/1990, which was pending before the Civil Judge, Senior Division, Nanded, the Reference Court. The claim of the appellant of compensation in respect of the land acquired is dismissed on the ground that it was not filed within limitation. Both the sides are heard.

2) In the claim petition, it is contended that the award was passed on 2.2.1989 by the Land Acquisition Officer, but the notice of award was not given. It is contended that respondent No. 3 - Shivram received compensation, but it was done behind the back of the claimant and so, there was no notice about the award to the claimant. It is contended that the reference was filed within time from the date of knowledge of the award. The reference was filed on 4.4.1989.

3) The respondent, State Government and Acquiring Body contested the matter and they contended that the reference was not filed within prescribed period of limitation. Under section 18 of the Land Acquisition Act the reference need to be filed within six weeks from the date of service of notice under section 12 (2) of the Act and not from the date of receipt of certified copy of the award. Further, other owner had received compensation which is mentioned in the reference itself. As per the record, notice under section 12 (2) was served on claimant on 9.2.1989 and so, within six weeks from that date, the reference ought to have been filed. The delay caused cannot be condoned as section 5 of the Limitation Act is not applicable in such a case. As the reference can be disposed of only on this

point, there is no need of consideration of other points involved in the reference. The Reference Court has considered the other points also. This Court sees no reason to interfere in the judgment and award of the Reference Court.

4) In the result, the appeal stands dismissed.

[T.V. NALAWADE, J.]

ssc/