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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 479 OF 2008

Shri. Namdeo Goma Patil Age 69 Yrs	]	
Residing at Ajivali, Post Ajivali, through his]		
power of attorney holder Mr Prakash	]	
Vasudeo Deodhar, Age 63 yrs. Occup:-	]	
Agriculturist, Residing at Panvel, Taluka	]	
Panvel, District : Raigad	]	...Applicant

vs

1)	Competent Authority, Chembur	]	
	Patalganga Pipe Line Project, Reliance]		
	Industrial Infrastructure Ltd.	]	
	Jawaharal Nehru Port Trust, Nahava]		
	Shewa, Taluka Uran, District : Raigad]		
		]	
2)	Chembur Patalganga Pipe Line	]	
	Project, Reliance Industrial	]	
	Infrastructure Limited (Registered	]	
	Under Companies Act, 1962, since	]	
	dated 16.03.1994) New Industrial	]	
	House, 5 th Floor, Above Bhulabhai	]	
	Auditorium, 178, Backbay	]	
	Reclamation, Babubhai Chinoy Road	]	
	Mumbai 400 020	]	...Respondents

.....

Mr S.M.Kamble for the Applicant
Mr Firdosh Poonawalla a/w Gaurav Thakur i/b M/s A.S.Dayal &
Associates for the Respondents

.....

CORAM : N. M. JAMDAR J.
2 SEPTEMBER 2016

ORAL JUDGMENT:

The Applicant has challenged the order passed by the learned Principal District Judge, Raigad, below exh.29 in Land Acquisition Reference No. 2 of 1996, dismissing the reference as barred by limitation.

2 The short issue that arises for consideration in this Civil Revision Application is whether the reference made by the Applicant to the Court in respect of the acquisition proceedings under the Petroleum and Minerals Pipeline Act, 1962 was within the period of limitation.

3 The Applicant is the owner of the Gat No.68, Hissa No.8 situated at Mouje Ajivali, Taluka Panvel, District Raigad. Out of this land, an area admeasuring 600 sq. mt. was acquired for the purpose of Chembur - Patalganga Pipeline under the provisions of the Petroleum and Minerals Pipeline Act, 1962 ("the Act"). A notification under Section 3 of the Act was issued on 17 November 1990 and a notification under Section 6 was issued on 23 February 1991. The award was declared on 18 July 1995. Possession of the land was taken on 23 February 1991.

3 The Applicant filed a Land Acquisition Reference (L.A.R.) No. 2 of 1996 for enhancement of the compensation. It was stated in the claim that, the Applicant came to know about declaration of the

award on 8 August 1995. Thereafter on 11 September 1995, he sought certified copies of part-I and part-II award. The copy of part-II award was given on 21 September 1995, however, the copy of part-I award and other documents were not given. It was stated by the Applicant that despite of repeated requests, copies of part-I award and other documents were not given. It was stated that though the period of limitation specified under the Petroleum Pipelines (Acquisition of right of user in land)Rules, 1963 was 90 days, in view of the fact that the copies of part-I award were not given, the period of limitation of 90 days did not apply and the reference filed on 2 January 1996 was within limitation.

4 In this reference, the Respondents filed an application under Order VII Rule 11 for rejection of the reference application. It was the contention of the Respondents that award was declared on 18 July 1995, Applicant got copy of part-II award on 29 September 1995 and the reference filed on 2 January 1996 was barred by limitation, and therefore, had to be rejected. The application was contested by the Applicant contending that all the documents and the complete copy of award was not given, the reference made was within limitation.

5 The application under Order VII Rule 11 filed below Exh.29, was considered by the learned Principal District Judge. Learned Principal District Judge, by the impugned order concluded that when the notice / intimation was served on the Applicant on 4 August 1995 the period of limitation started to run from that date and

90 days period came to an end on 3 November 1995, and therefore, the reference was not within limitation. Learned Principal District Judge, by the impugned order dated 8 April 2008 accordingly dismissed the reference. It is against this order, the present Revision is filed.

6 Heard Mr Kamble, learned counsel for the Applicant and Mr Poonawala, learned counsel for the Respondents.

7 The acquisition proceedings were commenced under the Petroleum Pipelines (Acquisition of right user in land)Act, 1962 (“the Act”). Under Section 3 of this Act, whenever it appears to the Central Government that it is necessary in the public interest, for the transfer of petroleum, pipeline has to be laid, then a notification for acquisition is to be issued for the purpose of acquiring the right of user in any land. Section 4 confers power of entry and serve upon notification issued under Section 3. Any person interested in the land is permitted to submit the objections, which are to be considered as provided under Section 5. Section 6 deals with declaration of acquisition of right of use. Section 7 deals with laying of pipeline after the acquisition proceedings. The Petroleum Pipelines (Acquisition of right of user in land) Rules, 1963 (Rules of 1963) have been framed by the Central Government exercising the powers under Section 17 of the Act. These Rules provide for methodology of acquisition proceedings. Rule 4 deals with filing of claims of compensation. Rule 5 deals with proceedings before the Competent Authority. Rule 5, which is

germane for present proceedings read as under:

“5. Application to the District Judge for determination of compensation:

Any party aggrieved by the determination of the amount of compensation may prefer an application to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated, not later than 90 days of the receipt of the intimation from the competent authority under rule 4.

Perusal of this Rule shows that, any party aggrieved by determination of amount has to prefer an application to the District Judge not later than 90 days from receipt of intimation from the Competent Authority. The question, therefore, is whether the present Reference was filed within 90 days of receipt of intimation.

8 It is not in dispute that the award was declared on 18 July 1995, and the copy of the award was not handed over to the Applicant on the same date. On 11 September 1995 the Applicant made an application for obtaining copies of the award. It is not in dispute that on 29 September 1995 only the copy of part-II award was given to the Applicant and copy of part-I award was refused. The learned Principal District Judge has taken the date of 4 August 1995 and held that the Applicant had knowledge of the award and this was the starting period of limitation and dismissed the reference. Mr Kamble, the learned counsel for the Applicant relied upon the decision of Apex Court in **Premji Nathu Vs State of Gujarat and Another**¹. Relying on this

1 (2012) 5 Supreme Court Cases 250

decision he submitted that mere knowledge of passing of award is not enough and the copy of the entire award must be served and without which there cannot be actual and constructive knowledge, for starting the period of limitation. Mr Poonawala, the learned advocate for the Respondents, on the other hand submitted that decision is under the provisions of Land Acquisition Act and not under the present Rules.

9 Section 18 of the Land Acquisition Act provides for reference to a Court in respect of claim of enhanced compensation. Section 18(2) provides for period of limitation and also specifies that the starting point of limitation would be from the receipt of notice from the Collector under Section 12 of the Land Acquisition Act, in case where a person is not present when the Collector made an award. Under the Rules of 1963, namely, Rule 5, the starting point of limitation is receipt of intimation from the Competent Authority. Therefore, the receipt of notice/ intimation is the starting point period of limitation, both under the Land Acquisition Act, 1882 as well as Rules of 1963. Therefore, on this point the provisions of Rule 5 of the Rules of 1962 and Section 18(2) of the Land Acquisition Act, are *pari-materia*. The Apex Court in the decision of *Premji Nathu* has considered starting point of limitation in the context of principles of natural justice. The Apex Court in the case of *Premji Nathu* took a review of earlier decision and held that it is not enough that the notice or an intimation is sent but the copy of the award must be served, without which there cannot be true and correct intimation. This principle will have to be extended, while construing rule 5 of the Rules

of 1963. The contention of Mr Poonawala that the decision in the case of *Premji Nathu* is not applicable, has to be rejected. The communication of the award cannot mean only the clerical act of declaration of award, but it must be communicated to the party and the copy thereof must be given to the party and then only there can be a true and correct intimation. It is not enough that a party has only the knowledge of the publication of the award. If a party has to institute proceedings for enhancement, principles of natural justice require that the copy of award which is to be challenged, must be supplied to the party.

10 The next argument of Mr Poonawala is that in the present case, copy of part II award was supplied to the Applicant. Before this argument is considered, it must be noted that this is not a ground on which learned Principal District Judge has dismissed the Reference. The ground on which the Reference was dismissed is that, mere intimation is enough. This view taken by the learned District Judge is not correct in view of clear dicta of the Apex Court in the case of **Premji Nathu** (supra), which as held above is clearly applicable to the present case.

11 Turning now to the question as to whether supply of part II Award was sufficient enough intimation for starting point of limitation. The copy of part II Award is placed on record. The perusal of the Part II Award shows that it narrates the prior history of the acquisition proceedings, discusses various other aspects and declares the amount to be paid to the Applicant. In part II Award, Part I award

is referred to. In clause 9 of the award, where the Competent Authority has dealt with payment of compensation, a reference is made to the valuation based on statistics. It is on this statistics and reason given in the background note, the market value is fixed. This background note is the Part I award. Therefore, Part I award provides explanation as to why the Competent Authority has fixed the market value at a particular rate. If the Applicant has to assail the market rate so fixed, the Applicant will have to show that the reasons given for arriving at a particular valuation are not correct, the award was passed on non germane consideration and relevant sale instances were not taken into consideration. Therefore, without this valuation note i.e. the Part I award, no effective claim can be made by the Applicant for enhancement of compensation. It is admitted position that copy of part I award was not given to the Applicant. It is laid down by the Apex Court in the case of **Harish Chandra Raj Singh Vs. Land Acquisition Officer**² that providing the essential contents of the award to enable a claimant to seek enhancement of the compensation, is a part of principles of natural justice. Therefore, it will have to be held that, since a copy of Part I award was not furnished to the Applicant, there was no true and complete intimation to the Applicant from the Competent Authority under Rule 4. Since, there was no intimation to the Applicant under Rule 4 of the Rules of 1963, the application could not have been said to have been time barred in view of the limitation provided under Rule 5 of the Rules of 1963.

12 To conclude, therefore, the learned Principal District

2 AIR 1961 SC 1500

Judge was in an error in holding that mere intimation without a copy of the award is the starting point of limitation. Furthermore even assuming that part II award was supplied to the Applicant in July 1995, since the main component of the award being Part I Award, was not supplied, there was no intimation in law to the Applicant. In the circumstances, the Applicant is entitled to succeed. The order dated 8 April 2008 passed by the learned Principal District Judge, Raigad, below Exh.29 in L.A.R. No. 2 of 1996 is quashed and set aside and the reference stands restored to file to be disposed of on its own merits. Since the acquisition proceedings have taken place in the year 1995 and the possession was taken in the year 1991, and matter reference has remained pending on a preliminary issue, the learned Principal District Judge, Raigad, will give priority to disposal of the reference and make an endeavor to dispose of the same within a period of six months from the date the writ of this Court reaches it. The Civil Revision Application is disposed of in the above terms. No order as to costs.

(N. M. JAMDAR J.)