

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

RFA No. 1606 of 2012 (O&M)

LAC No. 232 of 2008

Date of decision : 29.4.2016

Satbir Singh

.. Appellant

versus

The State of Haryana and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Keshav Pratap Singh, Advocate, for the appellant.

Ms. Tanisha Peshawaria, Deputy Advocate General, Haryana.

Rajesh Bindal, J.

By filing the present appeal, the landowner is seeking enhancement of compensation for the acquired land.

Briefly, the facts are that vide notification dated 17.11.1989, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire 633 kanals of land situated in the revenue estate of Gohana, Hadbast No. 32 and village Gudha, Hadbast No. 33, Tehsil Gohana, District Sonapat, for development and utilisation thereof as residential and commercial area at Gohana. Notification under Section 6 of the Act was issued on 16.10.1990. The Land Acquisition Collector (for short, 'the Collector') vide award no.2 dated 11.11.1992 assessed the market value of the acquired land @ ₹ 1,75,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned reference court. The learned reference court keeping in view the material placed on record by the parties, dismissed the objections filed by the landowner being time barred vide award dated 11.8.2011. It is this award which is impugned in the present appeal.

Learned counsel for the appellant submitted that the other landowners, whose land was acquired vide same notification, have been

awarded higher compensation, whereas only the appellant has been discriminated. He came to know about the acquisition of land in the year 1999. Thereafter, he filed the objections on 30.10.2003, for making reference to the learned Court below for assessment of fair compensation. The learned Court below vide award dated 11.8.2011, dismissed the same being time barred. It was submitted that the findings recorded by the learned court below that the reference filed by the landowner was time barred, are totally erroneous. He submitted that in terms of the provisions of Section 18 of the Act, the objections could be filed within six weeks from the date of award in case the land owners are present at the time of pronouncement of the award. The objections filed by the appellant should be considered within limitation.

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 appellant being time barred. There is no material on record to show that the objections were filed by the appellant within limitation. In fact he had admitted in his cross-examination while appearing as PW1 that he came to know about the acquisition of the land in question in the year 1999 when he went there to construct house over the plot in question. Further even from the date of knowledge, the delay is more than four years.

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 17.11.1989. The Collector announced the award on 11.11.1992. The appellant while appearing as PW1 had admitted in his cross-examination that he came to know about the acquisition of the land in question in the year 1999 when he went there to construct house over the plot in question. The objections were filed on 30.10.2003, after more than four years from the date of knowledge. The learned Court below dismissed the objections as time barred as those were received much beyond the period prescribed for the same.

In the aforesaid factual matrix, the issue which arises for consideration by this Court is, as to whether the objections filed by the

appellant are to be treated within time by considering the limitation from the date the appellant had the knowledge of announcement of the award. The admitted case of the appellant is that he had filed the objections on 30.10.2003 and he had the knowledge of the announcement of the award by the Collector in the year 1999.

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 subsection (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 appellant was well aware of the acquisition proceedings. The award was passed by the Collector on 11.11.1992. He came to know about the knowledge of the acquisition of land in the year 1999, however, the appellant filed the objections on 30.10.2003, which were clearly beyond the period prescribed under the Act.

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 appellant as time barred. Accordingly, the appeal is dismissed.

29.4.2016
vs

(Rajesh Bindal)
Judge