

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

**Date of Decision : 29.08.2016.
RFA No.2443 of 2015**

Karan SinghAppellant
Versus
State of Haryana and others Respondents

2. RFA No.2444 of 2015

Ramesh and othersAppellants
Versus
State of Haryana and others Respondents

3. RFA No.9323 of 2014
SanjayAppellant
Versus
State of Haryana and another Respondents

4. RFA No.9317 of 2014
Satya NarayanAppellant
Versus
State of Haryana and another Respondents

5. RFA No.9316 of 2014
Sushma NainAppellant
Versus
State of Haryana and another Respondents

6. RFA No.9314 of 2014
Shanti SwarupAppellant
Versus
State of Haryana and another Respondents

7. RFA No.9318 of 2014
Sat Narayan and othersAppellants
Versus
State of Haryana and another Respondents

8. RFA No.9320 of 2014
- Ram Rup @ Ram Swarup and othersAppellants
Versus
- State of Haryana and another Respondents
9. RFA No.9321 of 2014
- Tejvir Singh NainAppellant
Versus
- State of Haryana and another Respondents
10. RFA No.609 of 2015
- Naraini Devi and othersAppellants
Versus
- State of Haryana and others Respondents
11. RFA No.9326 of 2014
- Umesh Kumar and anotherAppellants
Versus
- State of Haryana and others Respondents
12. RFA No.9325 of 2014
- Ram Swarup @ Ram Roop and othersAppellants
Versus
- State of Haryana and others Respondents
13. RFA No.616 of 2015
- Roshan LalAppellant
Versus
- State of Haryana and others Respondents
14. RFA No.611 of 2015
- Madan Maohan and othersAppellants
Versus
- State of Haryana and others Respondents

- 15. RFA No.614 of 2015**
- ParveenAppellant**
- Versus**
- State of Haryana and others Respondents**
- 16. RFA No.617 of 2015**
- Madan Lal RahejaAppellant**
- Versus**
- State of Haryana and others Respondents**
- 17. RFA No.615 of 2015**
- RavinderAppellant**
- Versus**
- State of Haryana and others Respondents**
- 18. RFA No.9324 of 2014**
- SureshAppellant**
- Versus**
- State of Haryana and others Respondents**
- 19. RFA No.9322 of 2014**
- Ganga Sarup and othersAppellants**
- Versus**
- State of Haryana and others Respondents**
- 20. RFA No.9319 of 2014**
- Devki Nandan and othersAppellants**
- Versus**
- State of Haryana and others Respondents**
- 21. RFA No.612 of 2015**
- RajpalAppellant**
- Versus**
- State of Haryana and others Respondents**

22.

RFA No.613 of 2015

Yashpal

.....Appellant

Versus

State of Haryana and others

..... Respondents

23.

RFA No.610 of 2015

Smt. Saroj Bala

.....Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Balraj Gujjar, Advocate for the appellant(s)
(in RFA Nos. 2443 and 2444 of 2015)
Ms. Anita Balyan, Advocate for the appellant(s)
(in RFA Nos. 9323, 9317, 9316, 9314, 9318, 9320, 9321,
9326, 9325, 9324, 9322 and 9319 of 2014).
Mr. Sudhir Hooda, Advocate for the appellant(s)
(in RFA Nos. 609 to 617 of 2015).

Mr. Shivendra Swaroop, AAG, Haryana.

ARUN PALLI, J. (Oral)

Vide this order and judgment, I shall decide a bunch of 23 appeals, for the facts involved in these appeals are similar, and the question that arise for consideration is common.

The facts that are required to be noticed are limited.

Vide a notification issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), published on 15.12.2006, a land situated in the revenue estate of village Pehrawar, District Rohtak, was sought to be acquired for the development of Sector 26 for residential, transport, commercial and recreational purposes. Declaration under Section 6 was made on 14.12.2007. And, vide an award No.22 dated 03.07.2009,

the Land Acquisition Collector assessed the market value of the acquired land at ₹20 lakhs per acre. However, being aggrieved by the compensation awarded by the Collector, landowners filed objections, under Section 18 of the Act, and required the collector to refer the matter to the Civil Court. But, the reference Court vide its award, dated 05.07.2014, dismissed the claim of the appellants/landowners, for their references, under Section 18 of the Act, were found to be barred by time. That is how, the landowners are before this Court.

Ms. Anita Balyan, learned counsel for the appellants-landowners submits that the conclusion arrived at by the reference Court is palpably erroneous. For, all what has been observed by the reference Court is that the Collector had made an award on 3.7.2009, and under Section 18 of the Act, the landowners could seek a reference within 6 weeks or 42 days from the date of the award, that is, by 14.08.2009. But, as the claimants/landowners had filed objections after 14.08.2009, their references, under Section 18 of the Act, were time barred. She submits that neither the claimants/landowners were present at the time of pronouncement of the award nor represented by any authorized agent, before the Collector. And, they were not even served upon a notice under Section 12(2) of the Act. Therefore, she submits that finding recorded by the reference Court is untenable.

As opposed to this, learned State counsel fairly submits that there is nothing available on the records to show that the landowners were either present or represented before the Collector at the time of pronouncement of the award. He admits that no notice, in terms of Section

12(2) of the Act was served upon the claimants/landowners.

I have heard learned counsel for the parties and perused the records.

Before, I proceed to determine the dispute on merits, it would be apposite to refer to the conclusion arrived at by the reference Court which read thus:

“References under Section 18 for enhancement of compensation has to be filed within 42 days or six weeks from the date of passing of Award. In the present case Award has been passed on 03.07.2009, 42 days counting from 03.07.2009 comes to 14.08.2009. It has to be seen as to whether all the reference petitions were filed before 14.08.2009. Perusal of all the reference petitions show that Petitions No.850, 851, 853, 854, 855, 859, 866, 1130, 1136, 1138, 1139, 1140, 1141, 1142, 1143, 1152, 1160, 1161, 1162, 1163, 1164 were filed on 18.08.2009. Reference Petitions No. 1132, 1133, 1134, 1135, 1145, 1147, were filed on 19.08.2009. Reference Petition No.1137 was filed on 05.10.2009. Reference Petitions No.884 and 1126 were filed on 09.10.2009. Reference Petitions No.875 and 876 were filed on 28.10.2009. Reference Petitions No.867, 868, 869 and 870 were filed on 09.11.2009. Reference Petition No.882 was filed on 25.11.2009. Reference Petition No.874 was filed on 16.12.2009. Reference Petitions No.880 and 881 were filed on 01.01.2010. Reference Petition No. 857 was filed on 08.01.2010. Reference Petition No.852 and 856 were filed on 12.01.2010. Reference Petitions No.883 and 1125 were filed on 15.01.2010. Reference Petition No.878 was filed on 27.01.2010. Reference Petition No.871 was filed on 23.03.2010. Since in all these petitions, no ground has been made out as to why the reference petitions were

not filed within limitation. There is no application on the record seeking condonation of delay. There is no order on the record vide which application for condonation of delay has been allowed. In the absence of any such application or order the delay in filing the reference petitions cannot be condoned. It is hereby observed that petitions No.850 to 857, 859, 866 to 870, 871, 874 to 876, 878, 880 to 884, 1125, 1126, 1130, 1132 to 1143, 1145, 1147, 1152, 1160 to 1164 are barred by limitation, having filed after six weeks or 42 days from the pronouncement of Award dated 03.07.2009. Hence these petitions are also ordered to be dismissed on the ground of limitation”.

Ex facie, the conclusion drawn by the reference Court; that for the Collector made an award on 3.7.2009, objections under Section 18 of the Act could be filed within 42 days of 6 weeks therefrom, that is, by 14.08.2009, and as the appellants/landowners sought a reference after 14.08.2009, their claim under Section 18 was time barred, is *per se* perverse, as is being demonstrated hereinafter. Indisputably, in terms of the proviso to Section 18(2) of the Act, a claimant/landowner is required to file objections, under Section 18 of the Act, within 6 weeks, if he/she/it was present or represented before the Collector, at the time of pronouncement of the award. And, in other cases, within 6 weeks of the receipt of the notice from the Collector under Section 12(2) or within 6 months from the date of Collector's award, whichever period shall first expire. What has apparently been overlooked by the reference Court is that a landowner is required to file objections, within a period of 6 weeks from the date of the award, provided he/she/it was present or represented before the Collector at the

time of pronouncement of the award. Significantly, the reference Court did not record any such finding. And, this is not the case of the respondents, before this Court, that appellants/landowners were present or represented before the Collector when the award was pronounced on 3.7.2009. And, in the absence of any such finding or evidence the conclusion arrived at by the reference Court pales into insignificance.

Likewise, this has never been the case of the respondents that the appellants/landowners were served with a notice under Section 12(2) of the Act by the Collector.

Thus, all what is required to be determined is; whether the appellants/landowners filed objections under Section 18, and claimed a reference, within 6 months from the date of the Collector's award. It would be apposite to point out, at this juncture, that the question; whether the expression **“date of award”** is to be interpreted with a reference to the time when the award is signed by the Collector or from the date when the affected parties come to know about the same, was examined by the Hon'ble Supreme Court in **Harish Chandra Raj singh v. Land Acquisition Officer**, AIR 1961 SC 1500 and held:

“Therefore, if the award made by the Collector is in law no more than an offer made on behalf of the Government to the owner of the property then the making of the award as properly understood must involve the communication of the offer to the party concerned. That is the normal requirement under the contract law and its applicability to cases of award made under the Act cannot be reasonably excluded. Thus considered the date of the award cannot be determined solely by reference to the time

when the award is signed by the Collector or delivered by him in his office; it must involve the consideration of the question as to when it was known to the party concerned either actually or constructively. If that be the true position then the literal and mechanical construction of the words 'the date of the award' occurring in the relevant section would not be appropriate.

There is yet another point which leads to the same conclusion. If the award is treated as an administrative decision taken by the Collector in the matter of the valuation of the property sought to be acquired it is clear that the said decision ultimately affects the rights of the owner of the property and in that sense, like all decisions which affect persons, it is essentially fair and just that the said decision should be communicated to the said party. The knowledge of the party affected by such a decision, either actual or constructive, is an essential element which must be satisfied before the decision can be brought into force. Thus considered the making of the award cannot consist merely in the physical act of writing the award or signing it or even filing it in the Office of the Collector; it must involve the communication of the said award to the party concerned either actually or constructively. If the award is pronounced in the presence of the party whose rights are affected by it it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. Similarly if without notice of the date of its pronouncement an award is pronounced and a party is not present the award can be said to be made

when it is communicated to the party later. 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 'the date of the award' 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. In our opinion, therefore, it would be unreasonable to construe the words 'from the date of the Collector's award' used in the proviso to Section 18 in a literal or mechanical way."

So, it is explicit that **"the date of the award"** means the date when the award is either communicated to the party or is known thereto actually or constructively. However, the matter was never examined by the reference Court even from this stand point. Thus, the only and the inevitable option one is left with is to set aside the award, that is being assailed in these appeals, and remit the matter for re-decision.

Accordingly, the award dated 5.7.2014, rendered by the reference Court is set aside. The matter is remitted to the reference Court for re-decision, in accordance with law. Parties through their counsel shall appear before the District Judge, Rohtak on 30.09.2016, who shall be free to decide the matter himself or assign the same to any other Court. In the given situation, the reference Court is requested to re-decide the matter within three months from the receipt of the certified copy of this order.

29.08.2016

Manoj Bhutani

**(ARUN PALLI)
JUDGE**

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No