

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

RFA No.2819 of 2011
Date of decision: 03.02.2017
- Rai Sahib

... Appellant
- Versus
- State of Punjab and another

... Respondents
2.

RFA No.2820 of 2011
- Sultan Singh

... Appellant
- Versus
- State of Punjab and another

... Respondents
3.

RFA No.2821 of 2011
- Jagdish Chander

... Appellant
- Versus
- State of Punjab and another

... Respondents
4.

RFA No.2822 of 2011
- Promila Devi

... Appellant
- Versus
- State of Punjab and another

... Respondents
5.

RFA No.2823 of 2011
- Shanti Devi

... Appellant
- Versus
- State of Punjab and others

... Respondents
6.

RFA No.2824 of 2011
- Mastan Singh and another

... Appellants
- Versus
- State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sandeep Jasuja, Advocate for the appellant(s).
Mr. Inder Pal Goyat, Addl. AG, Punjab.

ARUN PALLI, J. (Oral)

The claimant-landowners are in appeal against the award dated 24.05.2010, rendered by the reference court, vide which their claim petitions under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act'), were dismissed being time barred.

The facts that are required to be noticed are limited, and have been extracted from RFA No.2819 of 2011.

Notification under Section 4 of the Act was issued on 12.12.1997, vide which a land situated in village Lakhewali Dhab, Tehsil Fazilka, District Ferozepur, was sought to be acquired for construction of Abulkhurana out fall drain. The final declaration under Section 6 was made on 17.12.1997. The Land Acquisition Collector, vide award dated 30.11.2000, assessed the market value of the acquired land @ ₹ 2,25,000/- per acre for Chahi, and ₹ 1,60,000/- per acre for Barani. Being aggrieved against the assessment and the compensation awarded by the Collector, the appellant filed objections under Section 18 of the Act. And, as indicated above, for the objections preferred by the appellant were dismissed on the ground of delay, thus, the appeal.

Learned counsel for the appellant(s) submits that it was specifically stated in the claim petition that the objections preferred by the appellant were within time from the date of knowledge of the award. Further, the conclusion arrived at by the court; for the possession of the acquired land was obtained on 01.04.1998, and the award was passed two

years thereafter, it could not be expected that the appellant had no knowledge of the acquisition or the award, is wholly erroneous being conjectural.

I have heard learned counsel for the appellant(s) and perused the record.

On an analysis of the matter in issue and the material on record, I find that the appeals are wholly devoid of merit and are, thus, liable to be dismissed for the reasons that are being recorded hereafter.

Concededly, the Land Acquisition Collector made an award on 30.11.2000. Records show that the appellant received the compensation in lieu of the acquisition of his holding, immediately after the award was pronounced. So much so, that the amount/compensation was received against receipt, and without any protest or resentment. Indisputably, the objections under Section 18 were filed on 19.07.2001. In terms of clause (a) sub-section 2 of Section 18 of the Act, the claimant-landowner is required to file objections within six weeks from the date of the Collector's award, in the event he was present or represented before the Collector, at the time when the award was made. And, in other cases, clause (b) sub-section 2 of Section 18 of the Act postulates; that the objections shall be filed within six weeks of the receipt of 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. What is the position in the present case?

In the matter in hand, albeit the appellant purport to have filed the objections within limitation from the date of knowledge, but all what he has pleaded in para 16 of his claim petition is:

“16. That the petition is filed within the period of limitation from the date of knowledge of the award.”

Ex facie, no date as regards acquisition of knowledge of the award rendered by the Collector is specified. Concededly, the appellant received the compensation immediately after the pronouncement of the award by the Collector on 30.11.2000. Thus, the only and the inevitable conclusion that one could reach is that the appellant had conclusive knowledge of the award on 30.11.2000. And, in terms of clause (b) sub-section (2) of Section 18 of the Act, he ought to have preferred objections within six months i.e. upto 31st May, 2001. Whereas, the objections under Section 18 of the Act were filed on 19th July, 2001. Not just that, since the appellant received the compensation immediately after the award was pronounced on 30.11.2000, the presumption is that he was even present before the Collector. Nothing exists on record to rebut the said presumption. Therefore, even from that standpoint the claim of the appellant was barred in term of clause (a) sub-section (2) of Section 18 of the Act.

I am also reminded to point out at this juncture that neither did the appellant examine himself in support of his claim nor led any other evidence. The preposition of law; as to whether the period of limitation envisaged under Section 18(2) of the Act to prefer objections can be extended, is no longer *res integra*. The Hon'ble Supreme Court in **Officer on Special Duty (Land Acquisition) and another v. Sham Manilal Chandulal and others**, (1996)9 SCC 414, has answered this question in negative:

“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.”

Learned counsel for the appellant(s) could not show or point out as to how the conclusion arrived at by the reference court either suffers from any material illegality or is contrary to record. No other argument was advanced. For, ex facie the objections filed by the appellants were barred by time, I am choice-less but to dismiss the appeals.

Dismissed.

February 3, 2017
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:
Whether Reportable:

YES/NO
YES/NO