

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

RFA No.3693 of 2016
Date of decision: 27.07.2017

Vinod Gupta

... Appellant

Versus

Punjab State and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Naresh Kaushal, Advocate for the appellant.
Ms. Lavanya Paul, AAG, Punjab.

ARUN PALLI, J. (Oral)

The claimant-land owner is in appeal against the award, dated 06.01.2016, vide which his claim under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act'), was dismissed being barred by time.

The facts that are required to be noticed are limited.

Vide notification under Section 4, dated 21.05.2004, a land measuring 155 Acres 8 Marlas, situated in Village Gurdaspur H.B. No.337 and Village Nabipur H.B. No.339, Tehsil and District Gurdaspur, was sought to be acquired for development of a residential colony in Gurdaspur. Final declaration under Section 6 was published on 07.02.2005. The Land Acquisition Collector assessed the value of the acquired land vide award dated 22.03.2007. The appellant-claimant being aggrieved by the assessment as also the compensation awarded by the Collector filed objections under Section 18 on 22.04.2012 i.e. after over five years. And, that being so, the

Reference Court dismissed his claim being time barred. The conclusion reads thus:

“16. From perusal of above said provision, it is apparent that a reference under the Land Acquisition Act can not be made beyond a period of 6 months under any circumstances. Still further, in the case in hand, it has been stated by applicant in his application under Section 18 of the Act as well as in his affidavit that he had filed objections under Section 9 of the Act before the Collector. However, it has been stated by applicant in his cross-examination that he was not present when the award was passed and in fact his objections were not considered. He has further stated that he came to know about passing of the Award on 22.3.2007 when it was passed. Thus, applicant was well aware of passing of the award on 22.3.2007. Thereafter present reference was filed after five years of the award and as such same is hopelessly barred by time. Mere fact that payment was received by applicant on 22.3.2012, is not sufficient to condone the delay of four and half years in filing the reference under Section 18 of the Act.”

Ex facie, the proviso to Section 18 of the Act postulates that the objections to the award rendered by the Collector can be preferred within six weeks provided the claimant-land owner was either present or was

represented before the Collector at the time of pronouncement of the award. Or within six weeks from the receipt of the notice under Section 12(2) or within six months from the date of Collector's award whichever period shall first expire. Concededly, neither the appellant was present nor represented before the Collector at the time of pronouncement of the award. It is not the case of the respondents either that he was ever served with any notice under Section 12(2) of the Act. And the expression "**within six months from the date of Collector's award**" would mean six months from the date of actual or constructive knowledge of the award pronounced by the Collector. Therefore, the observation; that the claimant could never seek a reference after six months of the award under any circumstances is unsustainable. The specific case set out by the appellant was/is that he acquired knowledge of the award dated 22.03.2007, only when he withdrew the compensation on 22.03.2012. And the appellant filed the objections within a month thereafter on 22.04.2012. The finding recorded by the Reference Court that "***He has further stated that he came to know about passing of the Award on 22.03.2007 when it was passed.***" appears to be a misreading or misconstruction of his statement. In the absence of any evidence to the contrary to show that he indeed had any actual or constructive knowledge of the award dated 22.03.2007 on a prior date, his claim could not be dismissed being time barred. Another question that stairs in the face of the record is; if he actually had any knowledge of the award, would he have waited for five long years to withdraw the compensation on 22.03.2012. Further, the observation; that the appellant had filed objections under Section 9 before the Collector, was inconsequential in context of the questions, whether objections filed by the claimant were time barred. That being so, the only

and the inevitable conclusion that can be reached is; that the finding recorded by the Reference Court is perverse and thus the impugned award is unsustainable.

Accordingly, the appeal is allowed. The impugned award dated 06.01.2016 is set aside. The matter is remitted to the Reference Court for re-decision in accordance with law. Parties through their respective counsel are directed to appear before the District Judge, Gurdaspur on 10.08.2017.

Needless to mention that it shall be the discretion of the District Judge to decide the matter himself or to assign it to a court of competent jurisdiction. In the wake of the peculiar facts and circumstances of the present case, the Court is requested to decide the matter within three months from the date the parties shall cause appearance through their respective counsel.

(Arun Palli)
Judge

July 27, 2017
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO