

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

RFA No.4303 of 2016(O&M)
Date of decision: 29.09.2017

Gram Panchayat Nakhrola, Tehsil Manesar, District Gurugram

... Appellant

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Ms. Meenakshi Sharma, Advocate for
Mr. ML Sharma, Advocate for the appellant.
Ms. Safia Gupta, AAG, Haryana.

ARUN PALLI J. (Oral)

The land owner is in appeal against the award, dated 25.01.2014, rendered by the reference Court, vide which, its claim under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act') was dismissed being time barred.

For, the issue that arises for determination in this appeal is limited, it shall be apposite to refer to the conclusion arrived at by the reference Court in support of its award:

“25. So far as the case No.503/12 Gram Panchayat vs. State is concerned, the same is certainly time barred as reference under sec. 18 of the Act was filed before LAC on 23.12.10, beyond the period of limitation of six months, from the date of passing of award on 14.6.2010. Neither Sarpanch or any

member panchayat or any other authorized representative of village Gram Panchayat Nakhrola could appear in the witness box to prove as to when Gram Panchayat Nakhrola came to know about the passing of award. The Gram Panchayat cannot be oblivious of the issuance of the notification under sec. 4 and 6 of the Act because chowkidar of village is involved, while making the proclamation in the village. Moreover nothing has been mentioned in the petition giving the reasons for filing the reference belatedly.”

The provisions of Section 18 of the Act are clear, concise and incapable of any mis-construction, which entitles a landowner, who has not accepted the award, to move the Collector to make a reference to the Civil Court for determination of the dispute, be that to the measurement of the land, the amount of compensation, the person to whom it is payable or the apportionment thereof. Further, proviso to the said provision postulates that application under Section 18 is required to be moved within 6 weeks from the date of the Collector's award if the applicant was either present or represented before the Collector when the award was pronounced or within 6 weeks of the receipt of notice from the Collector under Section 12(2) or within 6 months from the date of the Collector's award, whichever period shall first expire. This was never the case of the State either before the reference Court or in these proceedings that the claimant was present or represented at the time of pronouncement of the award, dated 14.06.2010. It is not the case of the State either that claimant/landowner was indeed served

with a notice under Section 12(2). In the given situation, the claimant/landowner could file its claim under Section 18 within 6 months from the date of the Collector's award. However, the period of 6 months shall commence from the date of actual or constructive knowledge of the award rendered by the Collector.

The positive case set out by the claimant/land owner is that it indeed acquired knowledge of the award on 08.10.2010 when it received the compensation, therefore, the objections filed by it under Section 18 on 23.12.2010 were within limitation. That being so, the claimant/land owner had discharged the initial onus. And, thus, the State ought to have led the necessary evidence to show that the claimant/land owner had actual or constructive knowledge of the award from a prior date or from a date six months prior to the date of filing of its claim under Section 18. Thus, the observation rendered by the Reference Court; that Collector had rendered an award on 14.06.2010, whereas the claimant/land owner filed objections under Section 18 on 23.12.2010 i.e. after over six months, therefore, its claim under Section 18 was time barred is erroneous. Likewise, the observation that Gram Panchayat cannot be oblivious of the notices issued under Section 4 & 6 because the Chowkidar of the village was involved while making proclamation in the village has no relevance in the context of the issue involved. For all what is required to be determined is as to when did the claimant/land owner acquire actual or constructive knowledge of the award rendered by the Collector. Further, the observation that no explanation was rendered as to why the reference was filed belatedly is also misconceived. The provisions of Section 5 of the Limitation Act, 1963 have no bearing on the proceedings under Section 18 of the Act and if the claim

under Section 18 is time barred the delay that had occurred cannot be condoned.

Faced with this situation, learned counsel for the parties submit that the matter needs to be remanded for re-consideration.

Accordingly, the impugned award dated 25.01.2014 is set aside qua the appellant only and the matter is remitted to the District Judge, Gurugram for re-decision in accordance with law. Parties through their respective counsel shall appear before the District Judge, Gurugram on 09.10.2017. It shall be the discretion of the District Judge to either decide the reference himself or assign it to any other court of competent jurisdiction. This order, however, shall not constitute any expression of opinion on merits of the case of either party. The Reference Court is requested to re-decide the matter within a period of three months from the date the parties shall cause appearance.

The appeal is disposed of in the above terms.

Copy of the order of an even date, vide which the application seeking condonation of delay in filing the appeal has been allowed, be also sent to the Reference Court with this order.

September 29, 2017
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:
Whether Reportable:

YES
NO