

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-4657-2016

Date of Decision: February 28, 2017

Jagdish Raj

...Appellant

Versus

Punjab State and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Naresh Kaushal, Advocate,
for the appellant.

Mr. K.K. Gupta, Addl. AG, Punjab,
for the respondents.

ARUN PALLI, J. (ORAL)

The claimant/landowner is in appeal against the award dated 4.12.2015, rendered by the Reference Court, vide which the claim of the appellant under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act'), has been dismissed being barred by time. The conclusion arrived at by the Reference Court reads thus:-

“16. Land Acquisition Collector Award under reference i.e. Ex. R9 is dated 22-03-2007. It is in the main application here that applicant had moved objections under section 5-A of abovesaid Act before Land Acquisition Collector though he does not know the fate of such objections. By virtue of Section 18(2)(b) of the Act, in such circumstances, applicant had six weeks time from Ex. R9 to

file this application under Section 18 of the Act. That period expired on 02-05-2007. He filed this application on 30-07-2007. Same is hit by limitation. Hence, this issue is decided in favour of respondents and against the applicant.”

All what has been observed by the Reference Court is that the appellant participated in the proceedings before the Collector and he had even filed objections under Section 5-A. Further, he could file the objections under Section 18, within six weeks from the date of the award, dated 22.03.2007, whereas the objections were filed on 30.07.2007. Thus, the period expired on 02.05.2005 and, therefore, the objections filed by the appellant were barred by time.

Ex facie, the impugned award is palpably erroneous, for, it is based on complete misconstruction of the provisions of Section 18(2) of the Act. A plain language of the said provision reveals that a landowner if aggrieved of the assessment and compensation awarded by the Collector, can file objections under Section 18 within six weeks from the date of the award rendered by the Collector, provided he was present or represented before the Collector at the time of pronouncement thereof.

Needless to assert that participation of the appellant in the proceedings before the Collector or filing of objections under Section 5-A, was hardly of any consequence, for, nothing is referred to or indicated to conclude that the appellant was either present or represented before the Collector at the time of pronouncement of the award. That being so, the observation; that the appellant ought to have filed the objections within six weeks from the date of the award dated 22.03.2007, is wholly erroneous.

Accordingly, the only and the inevitable conclusion that can be reached is that the award rendered by the Reference Court is wholly unsustainable.

As a result, the appeal is allowed. The impugned award dated 4.12.2015, is set aside. The matter is remitted to the Reference Court for re-decision, as regards the question whether the objections filed by the appellant were indeed barred by time, in accordance with law. Parties to the *lis* shall be at liberty to lead any further evidence as may be necessary in this regard. The parties shall appear before the District Judge on 27.03.2017.

(ARUN PALLI)
JUDGE

February 28, 2017
Pkapoor

Whether Speaking/Reasoned:	YES / NO
Whether Reportable:	YES / NO