

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

**RFA No.1022 of 2017
Date of Decision : 26.09.2017.**

Chander Shekhar

.....Appellant

Versus

Union Territory, Chandigarh

..... Respondent

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Neeraj Sharma, Advocate for the appellant.

Mr. Suvir Sehgal, Sr. Standing Counsel with
Mr. Tarun Walia, Advocate for U.T. Chandigarh.

ARUN PALLI, J. (Oral)

The land owner is in appeal against the award, dated 29.08.2016, rendered by the reference Court, vide which, his 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 it's award.

“17. Now coming to the issue of limitation, learned counsel for the claimant has submitted for computing the period of limitation from the date of release of amount, which as per the considered opinion of this court is not made out. The period of limitation has to be computed from the date of knowledge and the date of knowledge is clear

from para No.9 of the application. The land in this case was acquired in the year 2003. By no stretch of imagination, it can be taken to be within limitation. As per law, the limitation is six months from the date of passing of the award.

18. This court is of the further opinion that the limitation to file the reference petition could have also commenced from the date of service of notice under Section 12 (2) of the Land Acquisition Act, 1894, but where no such notice is served upon the land owners, the imitation for filing reference petition starts from the date of knowledge of the award. The date of knowledge of the award is clearly to be there soon after 2003.

19. May be the account was maintained as “NOT TO BE PAID” and the payment has been released subsequently, but the knowledge of award can clearly be attributable to the land owners. The reference has been made on 10.12.2013, which is much much beyond the period of limitation”.

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 administration 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 02.06.2003. It is not the case of the administration either that claimant/landowner was indeed served with a notice under Section 12(2). In the given situation, the claimant/landowner could file his 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. Ex facie, the reference Court attributed knowledge to the claimant on the basis of the averments set out in para No.9 of his application under Section 18, which reads thus:-

“9. That the claimant is filing the reference before this Hon'ble Court within period limitation. The respondent has not issued any notice to the claimant with regard to the acquisition of his land nor any notice ever received by the claimant after passing the award by the respondent. The claimant is residing in Mujfarnagar U.P. for the last 15 years for earning his livelihood. The claimant visited Chandigarh to see his land and came to know that his land has been acquired by the respondent after making the necessary inquiry from the office of the respondent then came to know that the amount has been deposited in the Court by the respondent Under Section 31 of the Land Acquisition Act. After that the claimant filed an application for the release of compensation from this Hon'ble Court but the respondent has marked N.T.P. in the compensation list

after that the claimant had made the necessary formality for the release of the compensation amount in the Court after completion of the record the Hon'ble Court has released the compensation amount to the claimant on 3.12.2013. Hence the present application is within the limitation period. There is no delay in the filing of the present application before this Hon'ble Court.”

A bare analysis of the assertions, set out in para No.9, do not conclusively show that the claimant had a clear knowledge of the award rendered by the Collector in the year 2003, itself. Thus, the observations **“the date of knowledge of the award is clearly to be there soon after 2003”** is wholly erroneous. Concededly, the compensation awarded to the claimant/landowner was marked as 'N.T.P.' “NOT TO BE PAID” and was deposited under Section 31 of the Act with the reference Court. It is also not in dispute either that claimant/landowner was released the compensation on 3.12.2013, and he filed objections under Section 18 on 10.12.2013. Faced with this, learned counsel for the parties are *ad idem* that the impugned award is unassailable and the matter needs reconsideration.

In conspectus of the above, the impugned award, dated 29.08.2016, is set aside. The matter is remitted to the reference Court for re-decision in accordance with law. The parties shall appear before the District Judge, Chandigarh on 9.10.2017. It shall be the discretion of the District Judge to either decide the matter himself or assign it to any other Court of competent jurisdiction. For, the dispute pertains to olden time, for, the

notification under Section 4 was issued as back as in the year 2000, the reference Court is requested to decide the matter within a period of three months from the date, the parties shall cause appearance.

26.09.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No