

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

**Date of Decision : 19.05.2017.
RFA No.1288 of 2017 (O&M)**

Suresh Kumar

.....Appellant

Versus

State of Haryana and others

..... Respondents

RFA No.1289 of 2017 (O&M)

Kusum Lata

.....Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Ms. Meenakshi Sharma, Advocate for
Mr. M.L.Sharma, Advocate for the appellant(s).

Ms. Safia Gupta, AAG, Haryana.

ARUN PALLI, J. (Oral)

This order shall dispose of RFA Nos.1288 and 1289 of 2017.

The claimant/landowner(s) is in appeal against the impugned award rendered by the reference Court. Concededly, claim of the appellant under Section 18 of the Land Acquisition Act was dismissed as the objections filed by him/her were held to be barred by time. The conclusion reached by the reference Court reads as thus:-

**“Now turning to the case in hand, it is admitted
case of the petitioner that award was passed by the**

Collector on 09.10.2003. The petitioner has put forth his stand to explain inordinate delay in preferring the reference under Section 18 of this Act with a two fold stand that he was not given any notice under Section 12(2) of the Land Acquisition Act and that the award was not within his knowledge. I am of the view that he himself has taken the benefit of compensation amount about 8 years back as admitted by him and it is beyond stretch or imagination to say that passing of award was not within his knowledge. It is also stated by him that he was not given notice under Section 12(2) of the Land Acquisition Act but when he herself withdrew the compensation, so it cannot be said that he did not receive the compensation”.

Apparently what forms basis of the finding recorded by the reference Court is that the appellant had received the compensation awarded by the Land Acquisition Collector eight years prior to the institution of the objections. And thus, it could not pleaded that the award rendered by the Collector was not within his knowledge. Whereas learned counsel for the appellant submits that the specific case set out before the reference Court was that the compensation awarded by the Collector was received by the appellant only on 21.09.2011, and the objections thereto were filed on 8.11.2011. Therefore, the finding recorded by the reference Court is perverse.

This position is not controverted by learned State counsel or in other words this is not the case of the State that the appellant had indeed received the compensation 8 years prior to the institution of the objections under Section 18.

That being so, the only and the inevitable conclusion that could be reached is that the impugned award cannot be sustained and the matter requires to be remitted.

Accordingly, the appeal is allowed and the impugned award dated 4.11.2016 is set aside. The matter is remitted to the learned Additional District Judge, Panchkula for re-decision in accordance with law. Needless to assert that this order shall not constitute any expression of opinion on merits of the case of either party. Parties through their respective counsel shall appear before the Court on 3.7.2017. In the facts and circumstances of the present case, learned Additional District Judge is requested to dispose of the matter within three months from the date, the parties cause their appearances i.e. 3.7.2017.

19.05.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No