

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.2401-CI-2017 in/and
RFA No.9555 of 2014 (O&M)
Date of Decision : 12.07.2017.

Dharambir and others

.....Appellants

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Sandeep Sharma, Advocate for the applicant/appellants.

Mr. Shivendra Swaroop, AAG, Haryana
for respondents No.1 and 2.

Mr. Pritam Saini, Advocate for respondent No.3.

ARUN PALLI, J. (Oral)

Claimants are in appeal against the award dated 01.04.2014, rendered by the reference Court, vide which, their claim under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act') has since been dismissed being barred by time.

The facts that are required to be noticed are limited.

Vide notification dated 11.01.2005, issued under Section 4, a land situated in village Sultanpur, District Gurgaon was sought to be acquired for construction and development of express highway phase-VII and connecting N.H. No.1, 10, 8 and 2 therewith. Final declaration under Section 6 was published on 21.05.2005. The Land Acquisition Collector,

vide award No.15, assessed the market value of the acquired land at ₹12.5 lac per acre. Concededly, the appellants filed objections under Section 18 of the Act on 28.02.2011, that is after 4 ½ years of the pronouncement of the award by the Collector. As nothing was brought on record by the appellants to justify the delay that had occurred in filing the claim under Section 18, the reference Court, as indicated above, dismissed their claim petition.

Before I proceed further, it would be apposite to set out the provisions of Section 18:-

“18 Reference to Court (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, Sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire”.

Ex facie, objections under Section 18 of the Act to the award rendered by the Land Acquisition Collector can be preferred within a period of 6 weeks from the pronouncement of the award, if the claimant(s)/landowner(s) was/were either present or represented before the Collector when the award was made. And, in other cases within 6 weeks of the receipt of the 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. As indicated above, the Land Acquisition Collector pronounced the award on 10.05.2006. There is no dispute either that the appellants filed objections under Section 18 on 28.02.2011, that is after 4 ½ years. This is not the case set out by the appellants either in their objections or evidence that they were not present or represented before the Collector at the time of pronouncement of the award. Be that as it may, the appellants received the compensation on 2.6.2006, in terms of the award rendered by the Collector. The record produced by learned counsel for the respondents substantiate this position which has not been controverted by learned counsel for the appellants. Thus, they had a concrete and conclusive knowledge qua the award dated 10.05.2006. That being so, in terms of the clause(b) of the proviso to Section 18, the claimants were required to file objections/claim within 6 months from the date of knowledge of the award. Thus, the claim made by the appellants under Section 18 suffered from gross, unexplained and inordinate delay. In any event, the position of law is settled that the provisions of Section 5 of the Limitation Act does not apply to the proceedings under Section 18, therefore, the delay that had occurred in

filing the objections could never be condoned (**Officer on Special Duty (Land Acquisition) and another Vs. Sham Manilal Chandulal and others (1996)9 SCC 414**). That being so, the only and the inevitable conclusion the reference Court could reach was; objections preferred by the appellants were liable to be dismissed being barred by time. Despite being pointedly asked, learned counsel for the appellants could not show as to how the conclusion arrived at by the reference Court was either perverse or suffered from any material illegality.

Having said that it would be expedient to notice here that the compensation awarded to the co-landowners was enhanced by the reference Court, vide award dated 27.08.2012. Thus, even if, the appellants had not preferred the objections under Section 18 of the Act within the stipulated time still they could claim re-determination of compensation in terms of Section 28(A) of the Act. Needless to assert that dismissal of the objections of the appellants on the ground of delay would not bar their right to seek re-determination of compensation provided the provisions of Section 28-A of the Act are duly satisfied. (See **Union of India Vs. Smt. Hansoli Devi, 2002 (7) SCC 273**).

In conspectus of the above, no ground is made out to interfere with the award rendered by the referenced Court. The appeal is accordingly dismissed. However, Learned counsel for the parties are ad idem that in the event the appellants move the Collector under Section 28-A of the Act within four weeks from today, their application shall be considered and decided in accordance with law.

CM No.2401-CI-2017

Learned counsel for the applicant/appellants does not wish to press this application any further.

Dismissed as not pressed.

12.07.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No