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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6243/2017, C.M. APPL.25907/2017**

RAMPHAL

..... Petitioner

Through : Sh. B.D. Sharma, Advocate

versus

UOI AND ANR

..... Respondents

Through : Sh. Yeeshu Jain, Standing Counsel with
Ms. Jyoti Tyagi, Advocate, for Respondent No.1.
Ms. Rukhmini. S. Bobde, Advocate, for SDMC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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24.07.2017

1. Issue notice. Sh. Yeeshu Jain, Standing Counsel and Ms. Rukhmini. S. Bobde, Advocates accept notice.
2. The petitioner claims a direction that his application for reference under Section 18 of the Land Acquisition Act, 1894 [hereafter "the 1894 Act"] should be dealt with by the Reference Court in the present case.
3. The Land Acquisition Collector (LAC) had refused to forward the application on the ground that it was time-barred.
4. The petitioner was a land owner whose properties were subjected to acquisition on 04.02.2010 – which resulted in a declaration under Sections 6/17 of the 1894 Act on 11.01.2011.
5. The Award was made by the LAC on 01.02.2012. However,

since there were disputes with respect to the shares and entitlement of some of the land owners, the matter was referred under Sections 30/31 of the 1894 Act. This reference was answered on 23.03.2016 after which the petitioners sought reference under Section 18 of the 1894 Act. The LAC passed the order rejecting the reference as time-barred in the following manner:

“As per records, the applicant filed reference application U/s 18 on 23/05/2016 vide Diary No.17556. Whereas the Award no.02/2012/ROB/LAC/SW was announced on 01/02/2012 by the Land Acquisition Collector. Thus, the applicant filed this reference after a time period of 1573 days from the date of announcement of the Award. It is seen in the records that notice U/s 12(2) of Land Acquisition Act, 1894 was issued to the applicant on 10/02/2012 which was delivered through the speed post mail. As provision u/s 18 of LA Act, 1894 every such application are mentioned as.

1. The person who was present or represent before the collector at the time announcing of Award. He will apply within six week from the date of Award.

2. In other cases, within six week of the receipt of the notice from the Collector u/s 12(2) or within six month from the date of the Collector's Award which ever period shall first expire.

In the conclusion of the above sub section A and B of u/s 18, the application of reference u/s 18 is time barred and thus u/s do not have power to forward or refer a time barred application to Civil Court. Thus, the reference application is hereby rejected.”

6. The petitioner argues that the application seeking reference

under Section 18 of the 1894 Act was not *time-barred* and that he became aware of the award only after determination under Sections 30/31 which took place on 23.03.2016 and was, therefore, unable to seek reference. In support, learned counsel relies upon *Madan v. State of Maharashtra* 2014 (2) SCC 720 where it was stated in para 11 that:

“ In either situation, the right to receive compensation under the Award would crystallize after apportionment is made in favour of a claimant. It is only thereafter that a reference under Section 18 for enhanced compensation can be legitimately sought by the claimant in whose favour the order of apportionment is passed either by the Court in the reference under Section 30 or in the civil suit, as may be.”

7. The respondent/State urges that the right of the land owner to take compensation is not disputed. The extent of such right, however, was an issue before the Court under Sections 30/31.

8. In these circumstances, the question of extending time would not arise. Learned counsel for the SDMC/requisitioning agency/beneficiary organization additionally submitted that certain judgments of the Court also indicate that in the absence of power to extend the period of limitation, the reference itself would be *per se* barred, denying jurisdiction to the Court to proceed on the merits.

9. It is evident from the above discussion that the order impugned is the refusal by the LAC to forward the petitioner's application under Section 18. Concededly, the petitioner was a party to the dispute with respect to the entitlement to the lands. That his basic entitlement was not denied is a matter of detail. However, the extent of it was

certainly in dispute. The Court can visualize different situations where the parties' extent of the right itself could be a matter of dispute in which even his ability to approach the reference court and also make the claim would be inchoate. Without exploring the other situations, what is evident in this case is that the LAC rejected the petitioner's application altogether. The issue of limitation, no doubt, goes to the root of the Court's jurisdiction. Yet, that is a matter to be considered by the Court and *per se* ought not to be a ground of rejection for the administrative authority forwarding the application seeking reference. It is to be remembered that unlike all other classes of suitors or persons aggrieved, the land owner cannot approach the Court directly but has to rely upon exercise of discretion by the land owning authority.

10. In the circumstances, the Court is of the opinion that the reference should be forwarded to the concerned Court which should then decide the issue of limitation in accordance with law.

10. A direction is issued to the Respondent No.1 to forward the petitioner's application to the concerned Court within four weeks. The Court shall decide the matter, including the issue of limitation in accordance with law after hearing the parties. The writ petition is allowed in the above terms along with the pending application.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 24, 2017/ajk