

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-17678-2018

Date of decision: 20.07.2018

Manreet Singh & others

....Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Karan Gupta, Advocate, for the petitioners.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the order dated 19.04.2018 (Annexure P-1), passed by respondent No.2, whereby the application filed under Sections 30 & 31 of the Land Acquisition Act, 1894 (for short, the 'Act') dated 27.06.2012, was rejected on the ground of delay. The said respondent had recorded a finding that the applicants had intentionally done so, in order to delay the case, since they had dispute with the private-respondent/Anoop Singh, now deceased.

Counsel for the petitioners has vehemently relied upon the judgment of the Allahabad High Court in **Prashant & 2 others Vs. State of U.P. & 8 others 2018 (2) ADJ 834**, to submit that the matter should have been referred to the Collector for decision on merits, rather than being adjudicated upon by the said respondent, who has proceeded to dismiss the application on account of delay.

The said argument is only to be noticed and rejected, in view of the law laid down by the Apex Court in **Meher Rusi Dalal Vs. Union of India & others 2004 (7) SCC 362**.

The factual matrix which emanates from the paperbook would

go on to show that the award was passed by the Land Acquisition Collector on 11.11.2002, for the land situated in Village Suniarheri and the market value had been determined @ Rs.5 lakhs per acre along with all statutory benefits. The petitioners were disputing the share with respondent No.3, who did not file any application under Section 18 of the Act, for enhancement and accepted the amount awarded by the Collector. Other landowners preferred petitions under Section 18 of the Act, which were decided on 30.03.2012 and the market value of the land was enhanced to Rs.24,20,000/- per acre (Annexure P-3). Same was varied on 12.06.2012 (Annexure P-4) on an application having been filed by some of the landowners and all the claimants were held entitled to benefit of interest under Section 28 of the Act.

Petitioners filed an application under Section 28-A on 27.06.2012 (Annexure P-5), seeking the benefit of enhancement. An application under Sections 30 & 31 of the Act was also filed on 27.06.2012 (Annexure P-2), for apportionment redetermination, raising a dispute with the private-respondent. The petitioners had also approached this Court in CWP-12846-2014, praying for decision on the application filed under Section 28-A, which was dismissed on 06.02.2015, on the ground that in view of the judgment in ***Babua Ram & others Vs. State of UP & another (1995) 2 SCC 689***, the judgment of the superior Courts was awaited. Thereafter, in RFA-2741-2012 titled *Gurpreet Singh Vs. State of Punjab & others*, decided on 10.02.2016 (Annexure P-6), further enhancement was granted by this Court and the market value was

enhanced to Rs.1400/- per sq.yard (Rs.67,76,000/- per acre). The said order has also attained finality as the SLP of the landowners was dismissed on 23.01.2017 (Annexure P-7). Thereafter, the petitioners approached this Court in CWP-29141-2017, seeking decision on Section 30 application, but on account of the impugned order having been passed on 19.04.2018, the writ petition was dismissed, with liberty to challenge the said order.

The above sequence of events would go on to show that respondent No.3 was well justified that if the present petitioners had dispute with Anoop Singh, they should have filed application under Sections 30-31 immediately regarding apportionment of compensation, after passing of the award on 11.11.2002. Sections 11 & 30 read as under:

“11 Enquiry and award by Collector. -[\(1\)](#)] On the day so fixed, or any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under Section 9 to the measurements made under Section 8, and into the value of the land [at the date of the publication of the notification under Section 4, sub-section (1)], and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of,-

(i) the true area of the land;

[\(ii\)](#) the compensation which in his opinion should be allowed for the land; and

[\(iii\)](#) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him:

Provided that no award shall be made by the Collector under this

sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf:

Provided further that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.

[(2) Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under sub-section (2) shall not, in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

(4) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), no agreement made under sub-section (2) shall be liable to registration under that Act.]

30. Dispute as to apportionment. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”

In similar circumstances, in **Meher Rusi Dalal** (supra) on an acquisition made in the year 1994, the application by the Land Acquisition Collector had been rejected on 26.09.1997 and the writ petition was allowed and directions were issued to make reference under Section 30 in the year 1998. The Apex Court held that Section 30 deals with apportionment of compensation and the right is debarred under

Section 18 where limitation is provided. It was held that to permit a party, who cannot apply under Section 18, to apply under Section 30 would be to render Section 50 nugatory. Resultantly, it was held that the Union of India could not claim a reference under Section 30 to claim apportionment, if it was not filed within reasonable time, keeping in view the limitation prescribed under Section 18. Relevant portion read as under:

“21. There is one other reason why the High Court should not have allowed the Writ Petition. Under [Section 18](#) if a party wants to claim a Reference it is to be done within a particular period. The Proviso to [Section 18](#) reads as follows:

"..... 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 (sic).

Undoubtedly under [Section 30](#) no such time limit has been prescribed. However, it is clear that any such application must be made within a reasonable time. What is the reasonable time will depend upon the facts and circumstances of each case. In a case like present, the reasonable time would be the time as allowed under [Section 18](#). This Court has in the case of [Gujarat vs. Raghav](#) (1970) 1 SCR 335 considered the provisions of Sections 65 and 211 of the Bombay Land Revenue Code, 1879. It was noticed that [Section 211](#) did not prescribe a time limit within which the Commissioner could

revise an order under [Section 65](#). It was however held as follows:

"..... It is true that there is no period of limitation prescribed under [s. 211](#), but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised.

It seems to us that section 6 itself indicates the length of the reasonable time within which the Commissioner must act under [Section 211](#). Under section 65 of the Code if the Collector does not inform the applicant of his decision on the application within a period of three months the permission applied for shall be deemed to have been granted. This section shows that a period of three months is considered ample for the Collector to make up his mind and beyond that the legislature thinks that the matter is so urgent that permission shall be deemed to have been granted. Reading [Sections 211](#) and [65](#) together it seems to us that the Commissioner must exercise his revisional powers within a few months of the order of the Collector....."

Even in *Sharda Devi's* case (*supra*) this Court has held that even though no limitation is provided for making a reference under [Section 30](#) the power had to be exercised within a reasonable period. This Court has held that what is the reasonable period would depend upon the facts of each given case. It appears to us that in cases where the parties have notice of the acquisition proceedings, even presuming, they can apply for a reference under [Section 30](#), the reasonable time would be the period prescribed under [Section 18](#). We immediately clarify that where parties do not have notice of the acquisition proceedings and/or their rights come into existence subsequent to the acquisition proceedings the starting point of limitation may be postponed but the

reasonable time would be the time set out in [Section 18](#) from the date of the knowledge or from the date they acquire rights, whichever is later.

For all the above reasons, it will have to be held that the impugned Judgment cannot be sustained and is hereby set aside. The Writ Petition filed by the Respondents stands dismissed. We affirm the order of the Land Acquisition Officer dated 26th September, 1997 and hold that the Respondents cannot claim a Reference under [Section 30](#) nor claim apportionment.

22. In our view, the Respondents have by adopting multifarious proceedings delayed the payment of amount for a number of years. We therefore direct that the Appellants shall be entitled to withdraw the balance amount deposited in the Court without any further delay.

The Appeals stand disposed of. There will be no order as to costs.”

As noticed, in the present case also, the award, as such, was passed wayback in 2002. Only on account of the amount having been enhanced by the Reference Court in the year 2012, the petitioners have got up from their slumber and started raising a dispute regarding the enhancement. The market value has gone up from Rs.5 lakhs to Rs.67,76,000/- per acre, which has led to this speculative writ petition and therefore, it is held that the petitioners have not approached the Collector in a reasonable time.

Reliance upon the Division Bench of Allahabad High Court in **Prashant** (supra) would be of no assistance to counsel for the petitioners. In the said case, challenge was to the order whereby the matter had been referred under Section 30 of the Act and the Division

Bench had held that there was no infirmity in the matter and the Collector had no right to adjudicate upon the title. In the present case, no application, as such, for raising the dispute of apportionment within a reasonable time, was filed. It has been held by the Apex Court that there is a bar under Section 18 and therefore, this Court is of the opinion that the order passed by respondent No.2 dated 19.04.2018 (Annexure P-1), does not warrant any interference and accordingly, the writ petition is dismissed in limine.

20.07.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*