

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA No. 4186 of 2017 (O & M)

Date of decision: 04.04.2018

Sanjay @ Sanjay Gumber and others

....Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

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

Present: Mr. Navmohit Singh, Advocate,
for the appellants.

Mr. Shivendra Swaroop, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

The Reference Court, vide its award dated 04.07.2017 has dismissed the reference petition on the ground of limitation that the award was passed on 27.04.2004 by the Land Acquisition Collector qua the notification under Section 4 of the Land Acquisition Act, 1894 (in short 'the Act') which was dated 02.05.2001 and the reference petition was filed before the Land Acquisition Collector on 22.04.2016. Reliance had accordingly been placed upon the judgments in *Mahadeo Bajirao Patial vs. State of Maharashtra and others, 2005 (4) RCR (Civil) 273; Officer on Special Duty (Land Acquisition) and another vs. Shah Manilal Chandulal and others, 1996 (9) SCC 414* and *Bhagwan Dass and others vs. State of U.P. and others, 2010 (2) RCR (Civil) 290* to hold that the 12 years had passed from the passing of the award.

There is no dispute with the proposition as such but it is to be noticed that even the Reference Court has recorded that no specific issue

was framed by its predecessor. Counsel for the appellant is well justified in arguing that had such an issue been framed, the onus would necessarily have shifted upon the State to prove the fact that whether the land owners were present at the time of passing of the award or as to when the possession was taken from them to show that the reference petition was beyond the prescribed period of limitation as provided under Section 18(2) of the Act.

The specific case of the land owners in their petition under Section 18 was that they have not been served with any notice under Section 9 or under Section 12(2) of the Act and had not received the awarded amount. It is also pertinent to notice that an application for condonation of delay was also filed that they had visited the land in question in the first week of February, 2016 and the neighbourers disclosed the fact that the land had been acquired by respondent no. 2. The specific averments in para no. 3 regarding the factum that no awarded amount had been received by them were also not rebutted by filing any specific reply which is also in the prescribed printed performa of the State. In another reply which also is on record, reference was only made that the petition was received on 22.04.2016 after the expiry of the limitation period and, therefore, no specific reference has been made as to whether the amount was received by the land owners also. The evidence of the respondents by way of Anil Kumar, Patwari also does not throw any light on this aspect regarding the receiving of the compensation at that point of time to show the said facts were incorrect.

Accordingly, the order of the Reference Court dated 04.07.2017

cannot be held to be justified as it has caused prejudice to the land owners

and is set aside. The matter is remanded to the Reference Court to decide afresh by framing appropriate issues. It is open to both the parties to lead further evidence regarding this aspect, if they so desire.

Appeal stands allowed accordingly.

04.04.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No