

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

**XOBJR-42-CI-2018 (O&M) in/and
RFA-1369-2017 (O&M)
Date of Decision:29.05.2018**

Angoori Devi and others ...Appellants

Versus

Gram Panchayat village Bal Jattan and others ...Respondents

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

Present: Mr. Amandeep Singh, Advocate for
Mr. Sanjiv Kumar Aggarwal, Advocate
for the appellants.

Mr. Vishal Yadav, Advocate for
Mr. Ajay Ghangas, Advocate
for respondent No.1/cross-objector.

Ms. Safia Gupta, AAG, Haryana
for respondent Nos.2 and 3.

Mr. Ateevraj Sandhu, Advocate
for respondent No.4.

G.S. SANDHAWALIA, J. (ORAL)

The present appeal has arisen out of the award dated 09.08.2016 passed by the Reference Court, Panipat wherein while deciding the reference petition under Section 18 and 30 of the Land Acquisition Act, 1894 (for short 'the Act'), the Reference Court has held that the award by the Land Acquisition Collector was passed in the year 2001 and the petition was filed in the year 2013. Accordingly, it held that the petition was time barred and not maintainable. Reliance has been placed upon *Brijesh Kumar and others Vs. State of Haryana and others 2014(3) RCR (Civil) 372, P.K. Ramachandran Vs. State of Kerala and another 1997 (4) RCR (Civil) 242; State of Karnataka and others Vs.*

S.M. Kotrayya and others; (1996) 6 SCC 267, Jagdish Lal and others Vs. State of Haryana and others, AIR 1997 SC 2366, M/s Rup Diamonds and others Vs. Union of India and others AIR 1989 SC 674

to come to the said conclusion. It is pertinent to notice that cross-objection has also have been filed by respondent No.1 which is barred by limitation by 152 days.

The acquisition in question was of land measuring 75 kanals 3 marlas situated in the area of village Bal Jattan which took place vide award No.1 dated 04.12.2001 in pursuance of the notification dated 11.08.1995. The acquisition was for the purpose of installation of oil refinery and compensation had been assessed @ Rs.2,00,000/- per acre. The other affected persons had got enhancement to the extent of Rs.155.43/- per square yard (Rs.7,52,281/- per acre) vide award dated 27.02.2007.

Keeping in view the fact that petition was filed in the year 2013 issues were framed regarding the fact whether the petition was time barred. Reference Court noticed that another Reference Court had awarded $\frac{3}{4}$ share to the tenants vide judgment dated 23.03.2012 (Ex.PW3/A).

It is also noticed that PW3 Satbir Singh in his cross examination admitted that land owned by them was also acquired with the other land and they had taken the awarded compensation as well as enhanced amount from the Court in view of the fact that the matter had been pending before this Court. It was thus noticed that against the same award in respect of the land of ownership, the appellants had taken the amount but did not file reference petition in respect of the land which

was in possession as *gair marusi*. In such circumstances, the reference petition was dismissed on the ground of limitation.

It is settled principle that law of limitation may operate harshly but it provides that the persons who seek remedy must seek so within statutory period itself. The Apex Court in **Officer on Special Duty and another Vs. Shah Manilal Chandulal and others 1996(9) SCC 414** has held that the statutory conditions laid down have to be complied with. The relevant portion reads as under:

“8. The right to make application in writing is provided under [Section 18\(1\)](#). The proviso to subsection (2) prescribes the limitation within which the said right would be exercised by the claimant or dissatisfied owner. In *Mohd. Hasnuddin v. State of Maharashtra [(1979) 2 SCC 572]*, this Court was called upon to decide in a reference under [Section 18](#) made by the Collector to the court beyond the period of limitation, whether the court can go behind the reference and determine the compensation, though the application for reference under [Section 18](#) was barred by limitation? This Court had held that the Collector is required under [Section 18](#) to make a reference on the fulfillment of certain conditions, namely, (i) written application by interested person who has not accepted the award; (ii) nature of the objections taken for not accepting the award; and (iii) time within which the application shall be made. In para 22 after elaborating those conditions as conditions precedent to be fulfilled, it held that the power to make a reference under [Section 18](#) is circumscribed by the conditions laid down therein and one such condition is a condition regarding limitation to be found in the proviso. The Collector acts as a statutory authority. If the application is not made within time, the Collector will not have the power to make reference. In order to determine the limitation on his own power, the Collector will have to decide whether the application presented by the claimant is or is not within time and specify the conditions laid down under [Section 18](#). Even if the reference is wrongly made by the Collector, the court will have to determine the validity of the reference because the very jurisdiction of the court to hear a reference depends upon a proper reference being made under [Section 18](#). If the reference is not proper there is no jurisdiction in the court to hear the reference. It was, therefore, held that it is the duty of the court to see that the statutory conditions laid down in [Section 18](#) including the one relating to limitation, have been

complied with and the application is not time-barred. It is not debarred from satisfying itself that the reference which it is called upon to hear is a valid reference. It has to proceed to determine compensation and if it is time-barred, it is not called upon to hear the same. It is only a valid reference which gives jurisdiction to the court. Therefore, the court has to ask itself the question whether it has jurisdiction to entertain the reference. If the reference is beyond the prescribed period by the proviso to sub-section (2) of [Section 18](#) of the Act and if it finds that it was not so made, the court would decline to answer the reference. Accordingly, it was held that since the reference was made beyond the limitation, the court was justified in refusing to answer the reference.

9. *It would thus be clear that one of the conditions precedent to make a valid reference to the court is that the application under [Section 18\(1\)](#) shall be in writing and made within six weeks from the date of the award when the applicant was present either in person or through counsel, at the time of making of the award by the Collector under clause (a) of proviso to sub-section (2). The Collector, when he makes the reference, acts as a statutory authority.*

10. *In [State of Punjab & Anr.v.Satinder Bir Singh](#) [(1995) 3 SCC 330], a Bench of two Judges [to which one of us, K.Ramaswamy, J., was a member] was to consider whether the application for reference under [Section 18](#) was barred by limitation and the direction issued by the court for making reference was valid in law. The Collector made the award on August 1, 1970. The notice under [Section 12\(2\)](#) was received by the respondent on September 22, 1970 and he received the compensation under protest on September 29, 1970. The application for reference under [Section 18](#) was made on January 21, 1971. The Collector rejected the application as being barred by limitation. The High Court in revision under [Section 115](#), CPC, similar to Gujarat Amendment, allowed the revision holding that since the notice did not contain all the details of the award, notice under [Section 12\(2\)](#) was not valid. Therefore, there was no limitation. This Court reversing the view had held in paragraph 7 that the form of notice was not material since the respondent appeared and received the notice on September 22, 1970 and received the compensation under protest on September 29, 1970. The limitation began to run from the date of the receipt of the notice and by operation of clause (b) of the proviso to sub-Section (2) of [Section 18](#) since the application was not made within six weeks from the date of the receipt of the notice, the application was barred by limitation prescribed in [Section 18\(2\)](#). It does not depend on the ministerial act of communication of notice in any particular form which the Act or Rules have not prescribed. The limitation began to operate from the*

moment the notice under Section 12(2) was received as is envisaged by t Section 18(2). Accordingly the order of the High Court was set aside.”

Similarly under the provisions of Section 30 of the Act, it has been held by the Apex Court in **Mehar Rusi Dalal Vs. Union of India and others 2004(7) SCC 362** that there should be some reasonable period to seek the apportionment. As noticed in the present case, the award was passed on 04.12.2001, i.e. after a period of almost 12 years in the year 2013 the reference petition under Section 18 & 30 of the Act was filed and, therefore, the period of over a decade cannot be termed as reasonable in any manner. The Reference Court thus was justified in dismissing the petition.

Keeping in view the above, this Court is of the opinion that the cross-objections which now have been filed by the Gram Panchayat also suffer from the same disability. Merely because some landowners have filed the appeals challenging the impugned order dated 09.08.2016 does not give a fresh cause of action as such to the Gram Panchayat seeking enhancement of the market value having not availed its remedy on an earlier occasion within time. Resultantly, the cross-objection is dismissed being time barred and the appeal is dismissed on merit.

29.05.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No