

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

**CR No.536 of 2013 (O&M)
Date of Decision: 17.09.2019**

TARLOCHAN SINGH

..... Petitioner

Versus

STATE OF PUNJAB THRU LAC ETC.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. R.L. Sharma, Advocate
for the petitioner.

Ms. Rajni Gupta, Sr. DAG, Punjab.

SUDIP AHLUWALIA J. (ORAL)

CM No.10133-CII-2018

For the reasons mentioned in the application, the petitioner is permitted to place on record the original postal receipt registered No.1470 dated 08.03.2006, subject to all just exceptions.

Application stands disposed off.

CR No.536 of 2013

1. Cost(s) amounting to Rs.5,000/- which were unpaid are paid today on behalf of the respondent to learned counsel for the petitioner by way of Cheque No.581506 dated 04.07.2019 drawn on Punjab National Bank, Vikas Bhawan, Sector 62, (Mohali) Punjab-160062.
2. The matter is thereafter taken up for hearing.
3. Vide impugned order dated 30.10.2012, the application filed by the petitioner under Section 18 of the Land Acquisition Act seeking reference to the Court for determination, in terms of Section 23 of the Act was dismissed by the Ld. Additional District Judge, Rupnagar.
4. The learned Court below was of the view that the petition was time barred on account of which issue No.2 i.e. "Whether the petition is within limitation" was decided against the original applicant.

5. As noted by the Ld. Court below, according to the respondents, the petition was time barred inasmuch as it was submitted in the office of the respondent only on 08.12.2006 vide diary No.3455. His admitted case was that the award in question was passed on 17.02.2006 which became known to the claimant only on 20.02.2006. *Per se* the application if actually submitted on 08.12.2006 as claimed by the respondents would have been certainly time barred under Section 18(2) of the Land Acquisition Act since the applicant was obligated to file within 6 weeks from the date of the award or for that matter from the date of the knowledge of the same. The Ld. Court below has also noted that from his side the petitioner-Tarlochan Singh did not lead any evidence to the effect that the reference application was within limitation.

6. It has been the contention of the petitioner before this Court that actually the application under Section 18 was filed on 08.03.2006. A copy of the same is on record as Annexure P-1. The same, however, does not indicate the manner in which it was delivered in the office of the respondent/Land Acquisition Collector.

7. To overcome this hurdle, the petitioner has placed on record the original Postal Initial Receipt dated 08.03.2006 bearing serial No.1470 ostensibly to show that the application was actually sent by registered post to the respondent on that particular date. There is no explanation as to what prevented the petitioner from placing the same before the Ld. Court below when the burden of proving that his application was within limitation was admittedly upon him. At any rate a close scrutiny of the receipt shows that it has been addressed to "PUDA" and not specifically to the Land Acquisition Collector whose office otherwise happened to be located in "PUDA BHAWAN, Mohali". The receipt *per se*, therefore, cannot be considered sufficient prove to establish that the application was actually sent to the correct addressee, i.e., the Land Acquisition Collector by registered post. At any rate in para-8 of his counter affidavit to the reply of the respondents, the petitioner

has affirmed in the following manner:-

“That the affidavit filed by the respondent it has been stated therein that the application seeking reference which was made by the petitioner on 08.03.2006 was not received in the office and was received on 16.07.2007 through registered post. A postal stamp on the envelop dated 14.07.2007 was also placed on record along with Registered Courier whereas the deponent had delivered the said reference dated 08.03.2006 in the office of respondent personally and had never sent the said reference through registered post.”

(Emphasis added)

8. It is, thus, seen that the petitioner has negated his own claim of having sent the application by registered post to the respondent, which fact in any case was disputed on behalf of the respondents, and had, on the contrary, contended that he had delivered the reference dated 08.03.2006 personally in the office of the respondent.

9. Clearly, the petitioner is blowing hot and cold in the same breath and has been creating and then resiling from different versions set up by him to prove that the reference application was actually sent to the respondents/Land Acquisition Collector on 08.03.2006.

10. In such a situation, this Court finds no ground to interfere with the impugned orders passed by the Ld. Courts below.

11. Dismissed.

17.09.2019
Ali

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No