

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

**CR No.7052 of 2012(O&M)
Date of Decision-15.10.2019**

Vijay Singh and others ... Petitioners

Versus

Union of India and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arun Bansal, Advocate with
Mr. Anubhav Bansal, Advocate for the petitioners.
Ms. Ranjana Shahi, Advocate for respondent No.1.
Mr. R.S. Khaira, AAG, Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 08.08.2012 passed by the Additional District Judge, Bathinda, vide which application under Section 18 of the Land Acquisition Act (for short 'the Act') was dismissed.

[2]. The reference under Section 18 of the Act was filed for enhancement of compensation on the ground that Wazir Singh was owner of the acquired land who died and thereafter, the petitioners being legal heirs were entitled to seek enhanced compensation by way of moving reference in question. The land was acquired by Union of India for the establishment of Cantonment at Bathinda. The award was passed by the Land Acquisition Collector on 11.06.1975. Petitioners claimed that no compensation was paid to Wazir Singh or to the petitioners and a sum of Rs.22,752.69 paisa is still lying

with the department and the petitioners are entitled to receive this amount along with interest @ 15 % per annum. Petitioners also pleaded that the amount assessed by Special Land Acquisition Collector was very low and potential value of the land was ignored. Petitioners further pleaded that they came to know about passing of award only from Halqa Patwari just fortnight before filing of the petition under Section 18 of the Act. From the date of knowledge, filing of petition was claimed to be within limitation.

[3]. Learned counsel for the petitioners vehemently stated that no notice was issued to the petitioners under Section 12 of the Act and from the date of knowledge, the filing of petition under Section 18 of the Act was within limitation. He relied upon **Orissa Infrastructure Development Corporation Vs. Supai Munda and others (SC), 2004(1) RCR (Civil) 311** and contended that limitation for filing the application under Section 18 of the Act would start from the date of service of notice under Section 12(2) of the Act. Learned counsel also placed reliance upon **Parsottambhai Maganbhai Patel and others Vs. State of Gujarat, AIR 2005 Supreme Court 3464.**

[4]. On the other hand, learned counsel for the respondents stated that a due service was effected. All other co-sharers had already withdrawn the amount of compensation. Notice was pasted on the house of original owner. Original owner namely Wazir Singh had died in the year 1966 before passing of the award on

11.06.1975. No mutation of inheritance was recorded. No address of the deceased owner Wazir Singh was available. Section 9(3) of the Act was complied with. Since the award was passed by resorting to Section 17(4) of the Urgency Provision of Land Acquisition Act, therefore, rapat dated 03.12.1974 was recorded and award was passed on 11.06.1975. On 23.09.1975, the petitioners appeared before the revenue authority for sanctioning of mutation in favour of their mother. Thereafter, on 07.04.1976, they applied for sanctioning of mutation in their favour i.e. in favour of the siblings after the death of mother. It cannot be presumed that the petitioners were not having any knowledge about the factum of acquisition and passing of award on 11.06.1975. The application for reference under Section 18 of the Act was filed on 16.07.2006 after a period of about 31 years.

[5]. Petitioners have pleaded the knowledge about passing of award by way of a vague pleading to the effect that they came to know about the award only from Halqa Patwari just fortnight before filing the petition under Section 18 of the Act and thereafter, the application was filed. The said knowledge has not been pleaded with reference to any date, time and manner of acquiring the same. Wazir Singh was owner of the property. Mutation of his succession was sanctioned in favour of his wife Lajwanti, petitioner No.1 Vijay Singh and daughters namely Bimla Rani, Kanya and Kanta Rani. Lajwanti also died and mutation of her inheritance was sanctioned in favour of Vijay Singh, Kanta Rani, Mela Singh and Bimla Rani.

[6]. As per stand taken by the respondents, the possession of the land was taken vide rapat regarding possession dated 03.12.1974. Taking of possession by rapat on 03.12.1974 was an act of notice to public at large. Possession of the land was transferred to defence authority. As per notification dated 09.10.1974 of Land Acquisition Act, possession of area was transferred to defence authority through AMEO, Bathinda. Promulgation of notification under Section 9(1) of the Act was given. As per mutation proceedings, the possession of military authorities was recorded and transfer of property was also recorded in terms of Award No.5 dated 11.06.1975 in lieu of total amount of Rs.27614093=43, Scheme No.PB/5408/A.C. Bathinda Land Acquisition Act, 1894. These mutations were sanctioned after the death of original owner, reference of which has already been made in earlier part of the order.

[7]. In the absence of reference under Section 18 of the Act, the petitioners could have asked for payment on the basis of decision dated 14.02.1991 vide which reference was decided by the Additional District Judge, Bathinda (Ex.A3) on record in accordance with law. Such provision was available only in terms of reference under Section 28 of the Act. Protection is not available for those who had sought reference under Section 18 of the Act.

[8]. The filing of petition under Section 18 of the Act after a period of 31 years, in my considered opinion, is patently time barred.

Reference can be made to decision dated 17.10.2018 passed by the Co-ordinate Bench in **CWP No.12271 of 2017** titled **Kamru and another Vs. State of Haryana and another**. The possession of the land was taken long back. Petitioners on two occasions got the mutations sanctioned in favour of their mother and thereafter in their favour. Wazir Singh died in the year 1966 and no address of Wazir Singh was available on record. The authorities persisted to affix the notice in terms of provisions of Land Acquisition Act. Since no address of Wazir Singh was available, therefore, proceedings undertaken by the authorities under the Act cannot be questioned after the lapse of 31 years, particularly when on 23.09.1975, petitioner No.1 Wazir Singh appeared for sanctioning of mutation in favour of his mother and thereafter on 07.04.1976, appeared for sanctioning of mutation in his favour as well as in the name of his siblings after the death of his mother. Other co-sharers have already taken compensation of the acquired land. The share of the petitioners is still lying deposited with the Treasury. At this belated stage, after the lapse of 31 years till the date of filing of petition under Section 18 of the Act, no interference in this revision petition would be justified. Reference can be made to the judgment of the Hon'ble Apex Court in **State of Maharashtra Vs. Digambar, 1995(4) SCC 683** and **CWP No.4790 of 2015** titled **Dharambir and others Vs. State of Haryana and others** decided on 03.09.2015 on the point of delay.

[9]. A person seeking relief under Article 227 of the Constitution of India after inordinate delay of 31 years between passing of the award on 11.06.1975 till filing of the reference under Section 18 of the Act on 16.07.2006 cannot get the benefit of the discretionary relief until there is a satisfaction recorded regarding the alleged deprivation of his/her legal rights. Date of knowledge as pleaded by the petitioners is vague enough to be considered as the same is discrepant in terms of date, time and manner of acquiring knowledge. Such kind of pleas being general pleas cannot be entertained. Undue delay of more than 31 years would disentitle the petitioners from taking such a plea at this stage as the same would amount to acquiesce and waiving the right to take compensation due to aforesaid long period of in-action.

[10]. For the reasons recorded hereinabove, I do not find any justification to interfere in this revision petition. This revision petition is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

15.10.2019
Prince

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