

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

RFA No.2612 of 2018 (O&M)
Decided on : 30.01.2019

Jai Singh

...Appellant

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Balraj Gujjar, Advocate, for the appellant.

Ms.Vibha Tewri, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

Present appeal has been filed under Section 54 of the Land Acquisition Act, 1894 against the judgment of the Reference Court, Rohtak dated 05.07.2014, whereby the reference was held to be barred by limitation, having been filed on 19.08.2009, since the award was passed by the Land Acquisition Collector on 03.07.2009. Accordingly, the Reference Court came to the conclusion that after counting the 42 days from the date of passing of the award, limitation would expire on 14.08.2009 and the 6 weeks would expire on the said date.

Counsel for the appellant, however, has referred to the judgment passed in RFA-2443-2015 titled *Karan Singh Vs. State of Haryana & others*, decided on 29.08.2016 (Annexure A-1) pertaining to the same award of the Reference Court. It is submitted that other landowners who were similarly placed, got the benefit and their appeals were allowed and the matters had been remanded to the Reference Court, by noting that no finding had been recorded by the Reference Court that

the landowners were present when the award was passed on 03.07.2009 and therefore, the benefit of 6 months period of limitation had to be taken into consideration. Relevant portions of the judgment read as under:

“Ex facie, the conclusion drawn by the reference Court; that for the Collector made an award on 3.7.2009, objections under Section 18 of the Act could be filed within 42 days of 6 weeks therefrom, that is, by 14.08.2009, and as the appellants/landowners sought a reference after 14.08.2009, their claim under Section 18 was time barred, is per se perverse, as is being demonstrated hereinafter. Indisputably, in terms of the proviso to Section 18(2) of the Act, a claimant/landowner is required to file objections, under Section 18 of the Act, within 6 weeks, if he/she/it was present or represented before the Collector, at the time of pronouncement of the award. And, in other cases, within 6 weeks of the receipt of the notice from the Collector under Section 12(2) or within 6 months from the date of Collector's award, whichever period shall first expire. What has apparently been overlooked by the reference Court is that a landowner is required to file objections, within a period of 6 weeks from the date of the award, provided he/she/it was present or represented before the Collector at the time of pronouncement of the award. Significantly, the reference Court did not record any such finding. And, this is not the case of the respondents, before this Court, that appellants/landowners were present or represented before the Collector when the award was pronounced on 3.7.2009. And, in the absence of any such finding or evidence the conclusion arrived at by the reference Court pales into insignificance. Likewise, this has never been the case of the respondents that the appellants/landowners were served with a notice under Section 12(2) of the Act by the Collector.

Xxxx xxxx xxxx

So, it is explicit that “the date of the award” means the

date when the award is either communicated to the party or is known thereto actually or constructively. However, the matter was never examined by the reference Court even from this stand point. Thus, the only and the inevitable option one is left with is to set aside the award, that is being assailed in these appeals, and remit the matter for re-decision. Accordingly, the award dated 5.7.2014, rendered by the reference Court is set aside. The matter is remitted to the reference Court for re-decision, in accordance with law. Parties through their counsel shall appear before the District Judge, Rohtak on 30.09.2016, who shall be free to decide the matter himself or assign the same to any other Court. In the given situation, the reference Court is requested to re-decide the matter within three months from the receipt of the certified copy of this order.”

It has further been pointed out that in the same circumstances, RFA-1702-2017 titled *Ran Singh (since deceased) through L.Rs and others Vs. State of Haryana & others*, was also disposed of on 26.04.2017, in the same terms.

State Counsel could not controvert the said fact. Rather it is pointed out by counsel for the appellant that in pursuance of the remand, the Reference Court, as such, answered the reference in favour of the landowners by enhancing the market value, as awarded by the Land Acquisition Collector.

However, the present appeal is also barred by 1336 days and therefore, keeping in view the above facts, CM-5800-CI-2018 is allowed, conditionally, that in case the amount is enhanced by the Reference Court, the landowner shall not be entitled for the benefit of interest for the said period, in view of the judgments passed by the Apex Court in

**Imrat Lal and others vs. Land Acquisition Collector and others, 2014
(14) SCC 133 and Dhiraj Singh (D) through L.Rs. and others vs.
Haryana State and others, 2014 (14) SCC 127.**

Resultantly, the present appeal is allowed, the order dated
05.07.2014, passed by the Reference Court, Rohtak is set aside and the
matter is remanded to the Reference Court, for fresh decision, in terms of
judgment passed in Karan Singh (supra).

January 30th, 2019 <i>sailesh</i>	(G.S.SANDHAWALIA) JUDGE
--	--

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
-----------------------------------	---------------

<i>Whether Reportable:</i>	<i>Yes/No</i>
----------------------------	---------------