

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

RFA-319-2018

Date of decision: October 29, 2019

Pawan Kumar and another

...Appellants

Versus

State of Haryana and another

...Respondents

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

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

 Mr. Shivendra Swroop, AAG, Haryana.

G.S. SANDHAWALIA, J.(ORAL)

The present appeal under Section 54 is arising out of the award dated 10th August, 2017 passed by the Reference Court, Jagadhri, whereby petition filed under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act') has been dismissed on the ground of being time barred.

The Reference Court has noticed that the award of the Land Acquisition Collector was passed on 16th July, 2007 and that similar references were decided on 11th February, 2014, whereby, the amount had been enhanced from Rs.20,00,000/- per acre granted by the Land Acquisition Collector to Rs.1560/- per square meter. The present reference petition was filed only on 22nd April, 2016 more than two years later. Resultantly, the Reference Court dismissed the same on the ground of limitation by relying upon the provisions under Section 18(2) (b) of the Act. It has also noticed that no plea on behalf of the petitioners has been taken that no notice under Sections 9 and 12(2) of the Act was served upon them and therefore, the petitioners had no knowledge of Award No.25 dated 16th July, 2007. It has also been noticed that the application for condonation of

delay had also been filed on the ground that the petitioners are villagers and belong to rural background and they are not conversant with the intricacies of law. The Reference Court has accordingly held that the court has no power for condoning the delay in view of the period prescribed under the Act itself and placed reliance upon the judgments of the Apex Court in ***Mahadeo Bajirao Patil 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 UP and others, 2010(2) RCR (Civil) 290***.

The record has been perused. In the petition filed under Section 18 of the Act, no such claim was made that the land owners had not been served any notice under Sections 9 and 12 (2) of the Act or had not received the awarded amount.

The argument, thus, raised that there is no such issue framed and the matter should be remanded as such in view of RFA No.4186 of 2017 titled as ***Sanjay @ Sanjay Gumber and others Vs. State of Haryana and another***, need not be accepted by this court in view of the settled position of law. In the said case, a specific plea had been taken that the land owners had visited the disputed land in the first week of February, 2016 and came to know about the acquisition of land. Statement of Patwari had also been taken into consideration and had not thrown any light on this aspect regarding the receiving of the compensation at any point of time and in the absence of any issue, the matter had been remanded to the Reference Court in the said case.

As noticed, in the present case, the land owners thus admitted the receiving of compensation and the award was passed on 16th July, 2007.

Thus, in the absence of any pleadings as such and the compensation already having been received, the Reference Court was well justified in dismissing the petition having been filed in the year 2016. Even a perusal of application under Section 5 of the Limitation Act filed in the reference petition also shows that the infirmities in the petition filed under Section 18 of the Act were not clarified regarding the date of knowledge.

Needless to say the landowner's right to claim the same amount of compensation on the basis of being co-owner in execution proceedings if permissible is not being curtailed by the present order.

Accordingly, there is no merit in the present appeal and the same is dismissed.

29.10.2019
m. sharma

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No