

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 560 OF 2018**

Annasaheb Bhimanna Sutar	...Applicant
Versus	
The Collector, Kolhapur & Ors.	...Respondents

Mr. Nagesh Y. Chavan for the Applicant

Mr. Y. Y. Dabke, A.G.P for the Respondent Nos. 1 and 2

Mr. Rohit Mangsule for the Respondent No. 3

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 13th FEBRUARY 2020

P.C. :

1 Heard learned counsel for the parties.

2 By this revision application, the applicant has impugned the order dated 15th March 2017 passed by the respondent No. 2 i.e. the Special Land Acquisition Officer, Kolhapur, by which, the applicant's reference was rejected on the ground of limitation.

3 Learned counsel for the applicant submits that under Section 12(2) of the Land Acquisition Act (Old), it is mandatory to send a copy of the award along with the notice under Section 12(2). He submits that

admittedly, the copy of the award was not annexed to the notice, as a result of which, the applicant filed an appropriate application before the authorities for obtaining certified copy of the award and thereafter filed the Reference. He submits that having regard to the same, the respondent No. 2 i.e. the Special Land Acquisition Officer could not have dismissed the said Reference on the ground of limitation. Learned counsel for the applicant further submits that the applicant had filed Reference within six weeks, as soon as he received the certified copy of the award from the concerned authority.

4 Learned counsel relied on the judgment of this Court in the case of ***Ashok s/o Namdeorao Nagpure (D) through L.Rs. vs. State of Maharashtra & Ors.***¹ as well as the order dated 4th June 2018 passed by this Court (Coram : Mrs. Mridula Bhatkar, J.) in Civil Revision Application No. 943 of 2012.

5 Learned counsel for the respondents oppose the revision application and submit that no interference is warranted in the impugned order.

1 2017 (6) Mh. L. J. 73

6 Perused the papers as well as the impugned order by which the applicant's Reference was rejected by the respondent No. 2 i.e. the Special Land Acquisition Officer under Section 12(2) of the Land Acquisition Act (Old Act). It is pertinent to note that the Apex Court in the case of ***Premji Nathu vs. State of Gujarat & Anr.***² has held that when the notice of award is issued under Section 12(2) of the Act, the said notice has necessarily to be sent along with the award and that the said notice is to be served by the Collector to the interested party. It is further held that if the said notice, without enclosing an award is sent, then it is not an effective service as contemplated under section 12(2) of the Land Acquisition Act (Old Act). It is thus evident that copy of the award is to be sent to the interested person along with notice and the same is to be shown to the Reference Court, as the issue of proper and effective service and resultantly of limitation, is to be decided only by the Reference Court.

7 As noted above, admittedly, the copy of the award was not annexed to the notice issued to the applicant under Section 12(2) of the Land Acquisition Act (Old Act), pursuant to which, the applicant applied for a certified copy of the same. On receipt of the said copy of the award,

2 (2012) 5 SCC 250

the applicant filed a Reference within six weeks before the Special Land Acquisition Officer

8 Considering the legal position i.e. the copy of the award was not annexed to the notice issued to the interested party i.e. the applicant in the present case, as contemplated under Section 12(2) of the Act, the Revision Application is allowed. The impugned order dated 15th March 2017 passed by the respondent No. 2 i.e. the Special Land Acquisition Officer, Kolhapur, is hereby quashed and set-aside. The applicant to again file his Reference to the Collector on or before 15th March 2020 and the Collector shall thereafter send the said Reference to the Additional District Court, Ichalkaranji, on or before 15th April 2020.

9 The parties shall appear before the Additional District Court, Ichalkaranji on 20th April 2020 at 11:00 a.m. The learned Additional District Judge to entertain and decide the said Reference on its own merits, expeditiously.

10 Civil Revision Application is disposed of accordingly on the aforesaid terms.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.