

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

RFA No. 3646 of 2019
Date of decision: 13.01.2020

Sunil Kumar

....Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Adarsh Jain, Advocate,
for the appellant.

G.S.SANDHAWALIA, J. (Oral)

The present appeal filed under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') is directed against the award of the Reference Court, Faridabad dated 30.05.2019.

Though the Reference Court has assessed the market value of the land which was acquired vide notification dated 07.02.2008 falling in village Fajjupur Majra Neemka but the reference was dismissed being not maintainable on account of being barred by limitation. The claim for enhancement as such on the strength of the judgment passed by this Court in ***RFA No. 7108 of 2012, Rampal and others (II) vs. Land Acquisition Collector*** decided on 31.05.2019 to claim the same amount of compensation, thus, would not be tenable. The Reference Court has found that the award by the Land Acquisition Collector was passed on 04.02.2011 and the amount of compensation had been withdrawn on 10.10.2017. The petition under Section 18 of the Act was only filed on 28.08.2018, which is beyond the period of six months as provided under Section 18(2)(b) of the Act. The Apex Court, has time and again, held that the limitation is

provided under the Statute and time cannot be extended and secondly that the issue of limitation is to be decided by the Reference Court even if no objection is there. Reliance can be placed upon the judgments of the Apex Court in ***Officer on Special Duty (Land Acquisition) vs. Shah Manilal Chandulal and others, 1996 (9) SCC 414*** and ***Mahadeo Bajirao Patil vs. State of Maharashtra and others, 2005 (7) SCC 440***. The relevant portion of the judgment in *Mahadeo Bajirao's case (supra)* reads thus:-

“We are here not concerned with the correctness of the decision, but the fact remains that having considered the claim of the appellant for compensation, the Special Land Acquisition Officer rejected the claim. This does amount to the making of an award, commonly described as "nil award". If the appellant was aggrieved by such an award, it was open to him to seek reference under [Section 18](#) of the Act which the appellant actually did. We, therefore, cannot hold that no award as envisaged by [Section 11](#) of the Act was declared on August 29, 1994, since the claim of the appellant was considered and was totally rejected. There was, therefore, no question of giving any calculation of the manner in which the compensation was computed. Since, the application under [Section 18](#) was not filed within six weeks of the receipt of notice under [Section 12\(2\)](#) of the Act, the High Court did not commit any error in holding that the application was barred by limitation. It was not disputed before us that the Land Acquisition Officer making a reference, or the Court considering a reference under [Section 18](#) of the Act has no power of condonation of delay in making an application under the aforesaid Section.

The next ground on which the High Court held the application to be barred by limitation is that in any

event the appellant had knowledge of the award being made on December 8, 1994, since he filed a copy of the award as annexure to the writ petition filed on December 9, 1994 and, therefore, should have filed the application under [Section 18](#) of the Act within six weeks. The submission urged on behalf of the appellant relying upon the decision of this Court in Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Anr. AIR 1961 SC 1500 that in the instant case even if it is assumed that the appellant had knowledge of the award at least on December 8, 1994, he could make an application within six months from the date of such knowledge, would have deserved serious consideration, but for the finding recorded by us earlier that the appellant had notice under [Section 12\(2\)](#) of the Act and, therefore, period of limitation for filing the application under [Section 18](#) was six weeks from the date of receipt of the notice and not six months from the date of knowledge of the award.”

Keeping in view the fact that the compensation as such had been withdrawn, it cannot be said that the appellant did not have the constructive knowledge of the award as such and, therefore, the finding recorded by the Reference Court is not liable to be interfered with and the appeal accordingly stands dismissed.

13.01.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No