

125 and 126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP-1744-2022(O&M)

Bhajan Singh

.....Petitioner

Versus

Land Acquisition Collector and anotherRespondents

2. CWP-1806-2022(O&M)

Swaran Singh

.....Petitioner

Versus

Land Acquisition Collector and anotherRespondents

Date of decision: 02.02.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.H.S.Batth, Advocate, for the petitioner

ANIL KSHETARPAL, J. (ORAL)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

By this order, two connected writ petitions i.e CWP-1744-2022 and 1806-2022 shall stand disposed of.

The respective petitioners assail the correctness of the identically worded orders dated 16.08.2019 passed by the Land Acquisition Collector (hereinafter referred to as the 'LAC') while declining to refer the dispute under Section 18 of the Land Acquisition Act, 1894, (hereinafter referred to as 'the 1894 Act') to the Court with regard to the assessment of market value of the acquired land. A perusal of the order shows that the respective applications filed by the petitioners have been rejected on the ground that these were filed beyond the period of 6 months. Learned counsel representing

the petitioners does not dispute that the provisions of the 1894 Act are applicable. A notification under Section 42 of the Punjab Town Improvement Trust, 1922, was issued on 15.05.2006. The LAC announced the award on 09.05.2008. The respective petitioners did not apply to the LAC for forwarding the reference to the Tribunal for re-determination of the market value whereas various other owners of the acquired land submitted applications to the LAC, which on being referred, came to be decided by the Tribunal in November, 2018. The Tribunal enhanced the market value. The respective petitioners for the first time submitted respective applications with a request to the LAC to forward the reference to the Tribunal in the month of December, 2018. The petitioners pleaded the following reasons to explain the delay:-

“That the petitioner have not received the compensation amount in protest that the compensation awarded to the petitioner in lieu of the acquisition of his land is inadequate and he was protesting for the same. Further land was not used by the Improvement Trust for purpose, which was acquired and remained unused. The petitioner was of the view that and acquisition notification may be denotified and land would be returned to owners, since the same is lying unused. Therefore, petitioner has not submitted his objection to competent authority.”

It may be noted here that the petitioners filed a previous writ petition i.e CWP 6249-2018 for payment of the compensation awarded by the LAC. The aforesaid amount has admittedly been paid on 16.01.2019.

The 1894 Act prescribes a time limit for filing an application under Section 18 of the 1894 Act. The respective petitioners filed the applications after a period of more than 10 years. It is also evident that the

respective petitioners have failed to disclose the date of knowledge of the award. They have also not pleaded that they did not receive notice under Section 12 of the 1894 Act.

A larger Bench of the Hon’ble Supreme Court in 'Mohd. Hasnuddin vs. State of Maharashtra (1979) 2SCC 522, has laid down that the LAC has no power to condone the delay of even one day because LAC is not a court.

As per Section 18 of the 1894 Act, the application for sending the reference to the Reference Court/Tribunal can at the most be filed within a period of 6 months from the date of passing of the award. The Hon’ble Supreme Court while liberally interpreting the provision has held that such period is required to be counted from the date of knowledge of the award. In the present case, it is evident that the petitioners have failed to disclose the date of knowledge of the award rather it is evident that the respective petitioners were in the knowledge of the proceedings as well as the date of announcement of the award.

Keeping in view the aforesaid facts, the LAC has correctly declined to forward the matter to the Reference Court. Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

02.02.2022
rekha

(ANIL KSHETARPAL)
JUDGE

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