

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-13550-2018 (O&M)
Reserved on: 14.07.2022
Date of decision: 20.07.2022

JAGJIWAN RAM AND ANR.

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANILKSHETARPAL

Present: Mr. S.K. Garg Narwana, Sr. Advocate
with Mr. Mukesh Rao, Advocate
for the appellant(s).

Mr. Shivendra Swaroop, AAG, Haryana
for respondents.

ANIL KSHETARPAL, J.

1. The appellants have challenged the correctness of the award of the Reference Court (hereinafter referred to as 'the RC') passed on 01.11.2014, while dismissing their petition under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act') as being time barred.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

BRIEF FACTS

3. In order to utilize the land for the development and utilization of Sector Roads for Sector 81 to Sector 95, the Government of Haryana issued a notification under Section 4 read with Section 17(1) of the 1894 Act on 11.02.2010. The notification under Section 6 of the 1894 was issued on 19.02.2010. The Land Acquisition Collector (hereinafter referred to as

'LAC') vide Award No.10, dated 14.06.2010, assessed the market value of the acquired land.

4. The appellants submitted their application to the LAC under Section 18 of the 1894 Act on 19.04.2012 i.e. after a period of nearly 1 year and 10 months. The appellants claimed that their application was filed within the prescribed period. However, there was no explanation as to how the application submitted on 19.04.2012 was within the period prescribed. Vide a consolidated award dated 01.11.2014, the RC disposed of 91 reference petitions. With respect to the applications submitted within the prescribed period, the RC assessed the market value of the acquired land at the rate of Rs.1,48,86,726/- against which the main batch of various appeals was disposed of by the High Court on 27.05.2016 while delivering judgment in **Pushpinder Kumar and others Vs. State of Haryana and others, RFA-5316 of 2014 and other connected cases**, wherein, the compensation was further enhanced. Thereafter, the matter has been finally decided by the Supreme Court vide judgment dated 05.09.2017.

5. It may be noted here that when the award was announced by the LAC on 14.06.2010, the appellants claim that they were not present. Section 18(2) of the 1894 Act prescribes the period within which the application under Section 18 is required to be filed before the LAC, which is extracted as under:-

“18. Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire. ”

6. Even as per the case put forth by the appellants, clause b of the proviso shall be applicable. It provides that the application can be filed either within a period of six weeks of the receipt of notice from the Collector under Section 12(2) or within six months from the date of the collector's award, whichever period shall first expire. Thus, it is evident that the maximum period of limitation for filing an application under Section 18 of the 1894 Act, is within six months from the date of Collector's award. The Supreme Court, after liberally construing the aforesaid provision, has held that such period of six months would begin to run from the date of knowledge of award. In this regard, reliance can be placed on **Raja Harish Chandra Raj Singh Vs. Deputy Land Acquisition Officer and another, AIR 1961 (SC) 1500, Parsottambhai Maganbhai Patel and others Vs. State of Gujarat, (2005) 7 SCC 431 and Mahadeo Bajirao Patil Vs. State of Maharashtra and others, (2005) 7 SCC 440.**

7. The RC, while dismissing the claim petition as time barred, has observed that the appellants did not appear in evidence nor they explained how their application under Section 18 of the 1894 ACt was within the prescribed period.

8. On 25.04.2022, the learned counsel representing the State of Haryana stated that the application submitted for filing reference was itself

barred by time/limitation. He submitted that the appellants had received the amount of compensation assessed by the LAC through two different cheques on 04.04.2011, therefore, they had the knowledge of the LAC's award.

9. Keeping in view the aforesaid facts, the appeal was adjourned on various occasions. On 18.05.2022, the Court considered it appropriate to seek report from the RC in this regard. It was directed that let a report be submitted after granting an opportunity to both the parties to produce the evidence.

10. Pursuant to the aforesaid directions, report dated 04.07.2022, has been received. Copy of the aforesaid report was supplied to the learned counsel representing the parties. The learned counsel representing the appellants has filed objections to the aforesaid report.

11. This Bench has heard the learned counsel representing the parties at length and perused the paperbook and the record of the Courts below, which was requisitioned.

12. The learned counsel representing the appellants has submitted that various other co-sharers have been paid the same amount of compensation, therefore the appellants are also entitled to the amount. The learned counsel relies upon the judgment passed in **A. Viswanatha Pillai Vs. Special Tahsildar for Land Acquisition, 1991(4) SCC 17.** He further submits that Sh. Naval Singh, appellant's uncle has been awarded the same amount of compensation vide judgment dated 27.05.2016, and the appellants should not be discriminated. He further submits that the LAC, while forwarding the reference to the Court, has specifically stated that the aforesaid reference is within time. He contends that now the State of

Haryana is debarred from taking a stand that the application under Section 18 of the 1894 was filed beyond the prescribed time. In the end, he contends that even the revenue official admits that no notice under Section 12(2) of the 1894 Act was served on the appellants.

13. Per contra, the learned counsel representing the State of Haryana has submitted that the appellants cannot be permitted to raise the claim of being a co-sharer, for the first time in appeal, particularly when the appellants did not base their claim on the aforesaid ground. He submits that as per the report submitted by the RC, it is evident that the appellants had the knowledge of the award as after collecting Cheque No.6337791 and 637800, dated 04.04.2011, with respect to Rs.24,96,566/- each they deposited the same in their respective bank account for collection of payment. Hence, the knowledge of the award is proved.

14. It may be noted here that a Larger Bench of the Supreme Court in **Mohammad Hasnuddin Vs. State of Maharashtra (1979) 2 SCC 572**, has concluded that neither the LAC nor the RC has any power to condone the delay in submission of the application under Section 18 of the 1894 Act. Rather, it has been held that such application should not be referred to the Court and even if it is referred, the same is liable to be dismissed.

15. It may be noted here that the SC in **Parsottambhai Maganbhai Patel's case (supra)** and **Mahadeo Bajirao Patil's case (supra)**, while liberally interpreting the proviso to Section 18(2) laid down that the period of limitation of six month would begin to run from the date of knowledge of the award. It is evident that the appellants received cheques worth Rs.50,00,000/- (approximately) on 04.04.2011. Thus, the period of

limitation would begin to run, certainly, from the date the cheques were received. It may be noted here that when the appellants appeared before the RC in the proceedings pursuant to the order of this Court dated 18.05.2022, they did not allege that they were not aware about the deposit of payment of the award in their bank account. They have stayed silent on the point as to whether they received the payment or not. They have also withheld the production of the statement of their bank account to prove that they never withdrew the amount of compensation from their respective bank accounts.

16. Keeping in view the aforesaid facts, the statement of the Collector or the Patwari to the effect that the reference was filed within time is factually incorrect. The ultimate authority to decide as to whether the application was submitted within time or not lies with the Court which is not bound to accept the statement of the Collector on its face value without investigating the matter. Moreover, it is proved that the appellants did had the knowledge in the month of April, 2011, even if the period prior thereto is ignored. It is not in dispute that a large track of land was acquired from the village and various other villagers did apply for reference.

17. If we calculate the period of limitation from 04.04.2011 i.e. the date on which the cheques were issued to the appellants, the maximum period for filing the application under Section 18 was six months. Thus, at the most, the application under Section 18 could be filed upto 04.10.2011, whereas, the application under Section 18 was filed on 19.04.2012. Thus, the finding of the RC is correct.

18. The next argument of the learned Senior counsel representing the appellants is with regard to the payment made to the various other co-

owners. It may be noted here that the appellants have not claimed the amount being a co-sharer. Hence, it would not be appropriate to discuss the same. It may be noted here, only for reference sake, that the entitlement of the co-sharer has, time and again, been rejected by the Supreme Court in the following judgments:-

1. Ramesh Singh (Dead) by LRs. and others Vs. State of Haryana and others, (1996) 4 SCC 469;
2. Irshad Ali and others Vs. Hazi Abdul Sukhur Mozumbar and others, (1997) 7 SCC 88; and,
3. Smt. Ambey Devi Vs. State of Bihar and another, (1996) 9 SCC 84.

19. The judgment relied upon by the learned Senior counsel in A. Viswanatha Pillai's case (supra) is distinguishable because in that case, four brothers were co-owners of the property and one brother did not seek reference, however, the remaining brothers did seek reference on behalf of A. Viswanatha Pillai. In that context, the Supreme Court granted the compensation. However, it is observed that this Court is not deciding the claim of the appellants on the question of co-sharer. If the law permits, they may avail the remedy, in accordance with law.

20. The last argument of the learned counsel is with reference to the statement of Patwari wherein he admits that no notice was issued to the appellants under Section 12 of the 1894 Act. It may be noted here that it is for this reason only, this Court has calculated the limitation from the date of payment. Once the appellants had the knowledge, the period of limitation would begin to run from the date of knowledge of the award itself.

21. In the objection petition, the appellants claim that they did not have the constructive knowledge of the award, therefore, the period cannot begin to run from the date of alleged payment. The appellants rely upon the following judgments:-

1. Premji Nathu Vs. State of Gujarat 2012(5) SCC 250;
2. Raja Harish Chandra Raj Singh Vs. Deputy Land Acquisition Officer and another, AIR 1961 (SC) 1500;
3. State of Punjab Vs. Mst. Qaisar Jehan Begum and another, AIR 1963 (SC) 1604; and,
4. Bhagwan Dass Vs. State of Uttar Pradesh, (2010)3 SCC 545.

22. It may be noted here that the award passed by the LAC, essentially, refers to two aspects. Firstly, the amount assessed by the LAC, secondly, the extent of land which has been acquired. It is not the case of the appellants that on the date on which they received the payment they did not had the knowledge of the contents of the award. In fact, the appellants, while filing application under Section 18, have claimed that the application is within the prescribed time. There is no explanation as to why the date of knowledge is to be taken from a future date and not from the date of award or the date of payment. In any case, there is enough material which shows that the appellants did receive the payment under the LAC's award in the month of April, 2011. It was for the appellant to prove that they did not had the knowledge. Sh. Jagjiwan Ram and Sh. Rajpal (the appellants herein) did not state that despite the receipt of the payment, they did not have the constructive knowledge of the contents of the award. The judgment in **Premji Nathu's case (supra)** is arising from peculiar facts of the case.

Though the landowner received notice under Section 12 of the 1894 Act, but it was not accompanied by a copy of the award. On the application submitted by the landowner, its copy was supplied and thereafter, an application under Section 18 was filed. In those circumstances, the Supreme Court made observations which have no parity with the present case. In **Raja Harish Chandra Raj Singh's case (supra)**, the Supreme Court held that the limitation will not begin to run unless the landowner has the knowledge of the award. In **Mst. Qaisar Jehan Begum's case (supra)**, the Supreme Court held that the landowner should actually and constructively know the essential contents of the award. In **Bhagwan Dass's case (supra)**, again, the Supreme Court reiterated the aforesaid exposition of law. In the humble opinion of this Court, none of the judgments relied upon by the learned counsel come to the rescue of the appellants.

23. For the reasons noted above, the conclusion is inevitable.

24. Hence, the appeal is dismissed.

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

20th July, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No