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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 13th April, 2022*

+ **W.P.(C) 12019/2018**

MOHINDER KUMARPetitioner

Represented by: Mr. Yudhvir Singh Chauhan,
Advocate.

versus

UNION OF INDIA AND ANR. Respondents

Represented by: Mr. Yeeshu Jain, Standing Counsel &
Ms. Jyoti Tyagi, Advocate for R-1.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

NEENA BANSAL KRISHNA, J. (ORAL)

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India for issuance of an appropriate writ directing the respondents to refer the matter of inadequacy of compensation to the court of learned District Judge for adjudication of the correct market value and thereby payment of enhanced compensation with statutory solatium and interest in favour of the petitioner.

2. Facts in brief are that the petitioner had purchased the property bearing Khasra No. 33/18/2/1, totaling 200 square yards, situated in the revenue estate of Village Nangloi Jat, Delhi vide the registered sale deed dated 16th November, 1998. The respondent No. 1 vide Award No. I/DC(W)/2007-08 dated 06th August, 2007 acquired the land of Village Nangloi Jat, Delhi, which included the property of the petitioner. The

announcement of the award was made on 06th August, 2007. According to the petitioner, he was neither served with any notice under Section 12 (2) of the Land Acquisition Act, 1894 (*hereinafter referred to as 'the Act, 1894'*) regarding the announcement of the award, nor was he present at the time of announcement of the award. The petitioner remained under a *bona fide* belief that he would receive a notice or intimation regarding the award. After a long time, when no notice was received from the Land Acquisition Collector (*hereinafter referred to as 'LAC'*), the petitioner approached his counsel and made an enquiry and came to know that the award was announced on 06th August, 2007. The petitioner then moved a Reference Petition under Section 18 of the Act, 1894 before the Office of the Land Acquisition Collector, District West, GNCT, Raja Garden, New Delhi but the same was dismissed by the LAC vide order dated 01st September, 2018 by observing that it was time barred.

3. The petitioner has challenged the impugned order on the ground that rules of Limitation are not intended to destroy the rights of the parties but are only meant to ensure that the parties do not resort to dilatory tactics and seek their remedy promptly. The petitioner approached the LAC immediately upon gaining knowledge about the award. Moreover, the LAC failed to consider that the petitioner was earning ₹25,000/- from the acquired land and after acquisition, the petitioner has been left with nothing. The explanation for delay as given by the petitioner, is *bona fide* and not a dilatory strategy as held by the learned LAC.

4. The petitioner has made reference to the decision of the Hon'ble Supreme Court in N. Balakrishnan vs. M. Krishnamurthy (1998) 7 SCC 123, wherein the delay of 883 days in filing the application was condoned. A

prayer is, therefore, made to set aside the impugned order and issue an appropriate writ, directing the respondents to refer the matter of inadequacy of compensation to the learned District Judge for adjudication.

5. Submissions heard.

6. Indisputably, the property of the petitioner, which formed part of revenue estate of Village Nangloi Jat, Delhi got acquired vide Award No. I/DC(W)/2007-08 dated 06th August, 2007. The Reference Petition under Section 18 of the Act, 1894 was filed only in the year 2017 i.e., after about 10 years of announcement of the award.

7. Section 12(2) of the Act, 1894 provides that in case, any party or its representative is not present at the time of announcement of award, “*the Collector shall give immediate notice of his award to such persons*”.

8. Section 18(2) of the Act, 1894 reads as under:

“18 (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.”

9. The limitation provided for making a reference to a court is six weeks from the date of Collector’s award for the persons, who are present or represented before the Collector at the time of making of award. In other cases, it is six weeks from the date of receipt of the notice issued under Section 12(2) of the Act, 1894. A period of six

months from the date of Collector's award is provided, where the person is neither present nor notice under Section 12 of the Act, 1894 is issued.

10. The petitioner, as per his own admission, was waiting for a Notice in regard to announcement of award, from the LAC. It is nowhere averred that he was not aware of the announcement of the award. Moreover, except stating that he approached his lawyers after waiting for a long time, the petitioner has neither given any specific date nor he has given any explanation as to why he waited for a "Long Time". His explanation is vague and lacks bonafide and his conduct is smitten with delay and laches.

11. The learned LAC has rightly observed that the present reference application is highly belated, being made after almost a span of 10 years of announcement of the award and is clearly barred under Section 18(2) of the Act, 1894.

12. We, therefore, do not find any merit in the present writ petition which is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

(MUKTA GUPTA)
JUDGE

APRIL 13, 2022/S.Sharma