

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

CR-2306-2023

Decided on:-17.07.2023

Shamsher

....Petitioner..

vs.

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Raj Kumar Gupta, Advocate,
for the petitioner.

Mr. Abhinash Jain, DAG, Haryana,
for respondents No.1 and 2.

Mr. Shobit Jain, Advocate,
for respondents No.3 and 4-Railway.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Article 227 of the Constitution of India, challenge has been made to an award dated 23.11.2022 passed by the learned Additional District Judge, Sonipat.

2. In pursuance of acquisition of land owned by the petitioner, situated in the revenue estate of Village Gangeshar, Tehsil Gohana, District Sonipat, vide notification dated 27.10.2009, issued under Section 4 read with sub-section 2 of Section 17 of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act"), followed by notification dated 02.02.2010, issued under Section 6 of the 1894 Act and an award dated 04.04.2012 against which, the petitioner-land-owner filed reference under Section 18 of the 1894 Act, seeking enhancement of compensation.

3. The Reference Court vide its award dated 23.11.2022, declined the reference being barred by limitation, as the same has been filed on 29.08.2012, challenging the award dated 04.04.2012 passed by the District Revenue Officer-cum-Land Acquisition Collector, Sonipat.

4. Being aggrieved, the petitioner has filed the present revision petition.

5. Learned counsel for the petitioner submits that in the present case, the landowner was neither present nor represented before the Land Acquisition Collector, at the time of passing of the award, besides it, no notice under Section 12(2) of the 1894 Act, was ever served upon him, informing him about the contents of the award and thus, in view of clause (a) to sub-section 2 of Section 18 of the 1894 Act, the reference filed within 6 months from the date of award was to be treated as within limitation.

6. On other hand, learned State counsel submits that in the present case, award was announced on 04.04.2012, whereas, the reference was filed beyond 6 weeks thereafter and thus, the same was rightly declined by the learned Additional District Judge-cum-Reference Court, Sonipat.

7. I have heard learned counsel for the parties and gone through the paper book.

8. A perusal of impugned order, shows that the finding recorded by the Reference Court on the point of limitation while rejecting the reference is not based on any evidence whatsoever and the same is totally non-speaking and also unreasoned, as no evidence at all has been discussed, so as to arrive at the said finding.

9. Considering the fact that the reference under Section 18 of the

1894 Act, involves substantial rights of the landowners, the same can only be declined on the point of limitation, in case, the Reference Court finds that the landowner was either present or represented before the Land Acquisition Collector, at the time of announcement of the award or notice under Section 12(2) of the 1894 Act was ever served upon him, informing him about the contents of the award. In the absence of any such findings having been recorded by the Reference Court, the matter needs to be remanded back for its fresh adjudication upon setting aside of the impugned order dated 23.11.2022 passed by the learned Additional District Judge, Sonipat.

10. Accordingly, the present petition is allowed, thereby, setting aside the impugned order dated 23.11.2022 and remanded back the matter to the Reference Court to decide afresh, that too, after affording opportunity to the parties to lead their evidence on the issue of limitation and upon dealing with the same and in case, the reference is found to be in limitation, the same be adjudicated upon merits..

11. Considering the fact that the acquisition in the present case pertains to the year 2009, the Reference Court is requested to decide the reference afresh within a period of 6 months from today. It is made clear that the aforementioned observations may not be treated as expression of opinion on the merits of the controversy.

17.07.2023

sonika

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No