

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

**CM-2390-CI-2020 in/and
RFA-8869-2014 (O&M)
Date of decision: 27.07.2023**

M/S R A LAND AND HOUSING PROJECTS PVT LTD

...APPELLANT

V/s

STATE OF HARYANA & ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

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

Mr. Shivendra Swaroop, DAG, Haryana
for respondent No. 1.

Mr. Pritam Singh Saini, Advocate
for respondent No. 2.

HARKESH MANUJA J. (ORAL)

CM-2390-CI-2020

Present application has been filed under Section 151 CPC for
taking up the main appeal for final disposal.

Notice of the application.

Learned counsels for the non-applicants/respondents accept
notice and raise no objection to the prayer made in the application.

For the reasons mentioned in the application as well as fair
stand taken by learned counsel for the parties, the same is allowed and the
main appeal is taken on board today itself for hearing.

MAIN APPEAL

By way of present appeal, challenge has been made to an Award dated 12.04.2014 passed by the Reference Court-cum-Additional District Judge, Gurgaon, whereby the reference petition filed by the appellant *qua* relief under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') seeking enhancement of compensation stands dismissed with costs on account of the same being barred by limitation.

2. Briefly stating, the land owned by the appellant, situated in village Begampur Khatola was sought to be acquired vide notification dated 15.11.2002 issued under Section 4 of the Act, followed by notification dated 12.11.2003 under Section 6 thereof. The Land Acquisition Collector vide award dated 18.11.2005 assessed the market value of the acquired land @ Rs.15 lacs per acre. Being dissatisfied, the appellant filed reference petition under Section 18 of the Act.

3. Though, present is first appeal and the records have not been summoned, however, the same is being disposed of after hearing both the sides with their consent, as learned counsel for the parties has supplied complete set of records of the Reference Court comprising of the pleadings and the evidence. Photocopy of the same has been retained with the consent of the counsels.

4. In the present case, at the first instance, immediately upon passing of award under Section 11 of the Act, a dispute was initiated at the instance of one Mahabir Singh claiming apportionment of compensation, by

invoking Section 30 of the Act, wherein the appellant was impleaded as a party vide order dated 25.08.2008. The aforementioned reference was decided on 21.12.2009, holding the appellant to be entitled for compensation on account of acquisition of land in question, which was purchased by it in the year 1996. Thereafter, a reference under Section 18 of the Act came to be filed at the instance of appellant on 14.06.2010, which was dismissed vide award dated 12.04.2014 by the Reference Court, holding the same to be barred by limitation, though on merits, the market value was assessed at Rs. 40,09,688/- per acre.

5. Impugning the aforesaid award dated 12.04.2014, learned counsel for the appellant submits that in the present case, the right to seek reference under Section 18 of the Act accrued in favour of appellant, only upon adjudication of reference under Section 30 of the Act, which came to be decided on 21.12.2009 and thus, reference under Section 18 of the Act filed at its instance on 14.06.2010 was well within limitation. In support of the submissions, reliance has been placed upon a judgment passed by the Hon'ble Supreme Court in case of "***Madan and another versus State of Maharashtra***", reported as **2014(2) SCC 720** and relevant para-12 thereof is reproduced hereunder:

"12. A cursory glance of the provisions of Sections 18 and 30 of the Act, extracted above, may suggest that there is some overlapping between the provisions inasmuch as both contemplate reference of the issue of apportionment of compensation to the Court. But, a closer scrutiny would indicate that the two Sections of the Act operate in entirely different circumstances. While Section 18 applies to situations where the apportionment made in the Award is objected to by a

beneficiary thereunder, Section 30 applies when no apportionment whatsoever is made by the Collector on account of conflicting claims. In such a situation one of the options open to the Collector is to make a reference of the question of apportionment to the Court under Section 30 of the Act. The other is to relegate the parties to the remedy of a suit. In either situation, the right to receive compensation under the Award would crystallize after apportionment is made in favour of a claimant. It is only thereafter that a reference under Section 18 for enhanced compensation can be legitimately sought by the claimant in whose favour the order of apportionment is passed either by the Court in the reference under Section 30 or in the civil suit, as may be.

6. On the other hand, learned counsels for the respondents submit that the appellant purchased the land in question in the year 1996 and even from the cross-examination of the witness – PW1/A, appearing on its behalf, one can easily make out that the appellant was having complete knowledge about the acquisition proceedings including the passing of award dated 18.11.2005 and thus, the reference filed at its instance on 14.06.2010 was clearly barred by limitation and the same was rightly dismissed by the Reference Court.

7. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the appellant.

8. In the present case, no evidence at all has been produced on record by the respondents as to whether the appellant or any of its representative was present at the time of announcement of award under Section 11 of the Act despite it having been pleaded by the appellant in its

reference petition filed under Section 18 of the Act that no notice under Section 12 (2) of the Act was ever served upon the appellant. Even no notice issued to or served upon the appellant, as contemplated under sub-section (2) of Section 12 of the Act was proved on record by the respondents. For reference, Section 12 of the Act, which is relevant for the purpose of discussion, is re-produced hereunder:-

“12. Award of Collector when to be final -

(1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

9. On the other hand, it has been clearly visible from the records that immediately after announcement of award on 18.11.2005 by the Collector in its exercise of powers under Section 11 of the Act, one Mahabir Singh filed petition under Section 30 of the Act seeking apportionment of compensation *qua* substantial portion of land purchased and owned by the appellant having impleading one Saved Singh. The said petition was presented to the Land Acquisition Collector on 11.11.2005 and the same was sent to the reference Court on 04.02.2008 alongwith the amount of compensation assessed under the award which was thus, never disbursed to the appellant, who initially waited for adjudication of the aforesaid

reference, however, later moved an application for its impleadment before the Reference Court. The appellant came to be impleaded as party in the reference under Section 30 of the Act on 14.12.2009 which was finally decided by the Reference Court on 21.12.2009, holding the appellant to be entitled to receive the compensation.

10. As such, in pursuance to the Award dated 21.12.2009 making adjudication upon reference under Section 30 of the Act, the amount of compensation was disbursed in favour of appellant on 31.05.2010 & 08.06.2010. Immediately thereafter, the reference under Section 18 of the Act, seeking enhancement of compensation was filed on 14.06.2010, i.e. less than six months of the passing of the Award dated 21.12.2009, under Section 30 of the Act, whereby the rights of the appellant to receive compensation were crystalized and thus, making it to be with limitation as envisaged under Section 18 (2) (b) of the Act as well as in terms of law laid down by the Hon'ble Supreme Court in case of **Madan and another (supra)**. For reference, Section 18 of the Act, being relevant for discussion, is reproduced hereunder:-

“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 persons 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.

11. The findings recorded by the learned Reference Court to the effect that the appellant was having knowledge about the acquisition as well as the passing of the Award and thereby, dismissing the reference under Section 18 of the Act by holding it to be barred by limitation, cannot be sustained especially when no finding at all has been recorded by the Reference Court to the effect that the appellant was having actual or constructive knowledge about the contents of the Award. Thus, in view of the aforesaid discussion, the finding on the issue of limitation as recorded by the Reference Court is hereby reversed and the reference petition filed at the instance of appellant is held to be within limitation in terms of clause (b) to sub-section (2) to Section 18 of the Act.

12. As regards the quantum of market value / compensation, it has not been disputed by the respective counsels that the matter is squarely covered vide judgement dated 23.09.2014 (Annexure A-1) passed by this Court in RFA No.5378 of 2013, titled “***Ram Niwas and others versus Sub Divisional Officer and others***”, whereby the compensation has been assessed at Rs.57,08,000/- per acre for the land pertaining to Village Khandsa, forming part of the same acquisition proceedings and notifications.

The operative part of said judgment is reproduced hereunder:

“For the aforesaid acquisition, this Court vide judgment in RFA No. 2174 of 2012 Smt. Savitri Devi vs The Land Acquisition Collector, Gurgaon and others, decided on 2309.2014, had assessed the compensation of land of village Khandsa @ Rs. 57,08,000/- per acre. The landowners herein shall be entitled to same compensation. They shall also be entitled to all the benefits available to them under the Act.”

13. In view of the above, present appeal is allowed in terms of judgement dated 23.09.2014, passed by this Court in case of **Ram Niwas and others** (*supra*) and the appellant-landowner herein is held entitled for award of market value to the tune of Rs. 57,08,000/- per acre besides all other statutory benefits / interests as provided under the Act.

14. Pending application(s), if any, shall also stand(s) disposed of.

27.07.2023
manisha

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No