

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

RFA-2341-2018

Date of Decision: August 23, 2023

RAJ KUMARI

..... Appellant

Versus

STATE OF HARYANA AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.S. Dalal, Advocate for appellant.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to an award dated 01.11.2017 passed by Addl. District Judge, Kaithal whereby the reference petition filed under Section 18 of Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act') at the instance of appellant-landowner has been dismissed being barred by limitation.

2. Briefly stating, the land owned by appellant was sought to be acquired vide notification dated 12.04.2002 issued under Section 4 of 1894 Act followed by notification dated 27.03.2006 issued under Section 6 of 1894 Act. Thereafter, award was announced on 07.03.2008. Being aggrieved, the appellant filed reference under Section 18 of 1894 Act seeking enhancement of compensation which was dismissed being barred by limitation being filed on 02.05.2016.

3. Impugning the aforementioned award, learned counsel for the appellant submits that in the present case, no notice under Section 12(2) of 1894 Act was ever served upon the appellant before the passing of the award and the factum of award came to the notice of the appellant only in November 2015 when she visited Kaithal and the compensation was also released in her favour on 31.12.2015 and

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thus the reference was filed within six months thereof, therefore the same was within limitation.

4. On the other hand, learned State counsel submits that award under Section 11 was passed on 07.03.2008 whereas present reference petition was presented on 01.03.2016 i.e. after almost 8 years thereafter. Thus the same was rightly dismissed being barred by limitation.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the appellant.

6. A perusal of record shows that in para 5 of reference petition, the appellant has very specifically averred that no notice under Sub-Section 2 to Section 12 of 1894 Act was ever served upon appellant. Though, the aforesaid averment has been denied in the written statement by the respondents, however, no particulars of any notice as obligated under Sub-Section 2 to Section 12 of 1894 Act having been served upon appellant has been detailed therein. Even in their evidence, respondents have failed to produce any document to that effect. Thus, in the present case, once the factum of receipt of notice of award was specifically denied by the appellant-landowner in its affidavit and the same was not rebutted by the respondents by production of produced any document to counter the same, the reference petition filed at the instance of appellant-landowner could not

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have been declined being barred by limitation in view of judgment of Hon'ble Apex Court in **Bhagwan Das and others Vs. State of U.P. and Others 2010(2) RCR (Civil) 290 SC**. As the appellant claims that she came to know about the acquisition only in November 2015 which is also substantiated from the fact that she withdrew the compensation vide voucher dated 31.12.2015 only, reference filed on 02.05.2016 was rightly filed within limitation i.e. within six months of the knowledge by the appellant.

7. In view of the discussions made hereinabove, the award dated 01.11.2017 passed by Addl. District Judge, Kaithal is hereby set aside. Having reversed the findings on the issue of limitation, the matter is thus remanded back to Reference Court for its fresh adjudication on merits and the parties are requested to appear before the Reference Court on 15.09.2023.

8. Considering the fact that the acquisition proceedings pertain to the year 2005, the Reference Court is requested to dispose of the Reference within a period of six months from the date of receipt of certified copy of this order.

23.08.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>