

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

RFA-705-2018 (O&M)

Reserved on:- July 14, 2023

Date of Pronouncement:- October,20, 2023

Ram Kanwar & others ...Appellants

vs.

State of Haryana & others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. J.S. Ghumman, Advocate
for the appellants.

Mr. Pritam Singh Saini, Advocate
for respondent No.3.

HARKESH MANUJA, J.

1. The present appeal has been filed against the judgment dated 30.11.2016 passed by Ld. Additional District Judge, Gurgaon (hereinafter referred to as 'Reference Court'); whereby reference filed by the appellants invoking section 18 of Land Acquisition Act, 1894 (hereinafter referred as 1894 Act) against the award dated 23.12.2002 has been dismissed on the ground of limitation.

2. Briefly stated, facts of the case are that notification under Section 4 of the 1894 Act pertaining to the land of appellants in Village Hayatpur Distt Gurgaon, was issued on 22.02.2002 to acquire the same for public purpose i.e. laying of water carrier channels/pipes, raw water storage sedimentation tank and pumping station for industrial complex of Chaudhary Devi Lal Industrial Model Township, Manesar, Tehsil and Distt. Gurgaon. The Land Acquisition Collector (for short

of compensation were specified pertaining to each village acquired. Aggrieved with the said award of compensation, the appellants preferred reference petition under Section 18 of 1894 Act on 11.09.2012, seeking enhancement of the market value of acquired land.

3. The Reference Court dismissed the aforementioned petition vide its award dated 30.11.2016 on the ground of limitation, disbelieving the version of appellants for justifying the delay in approaching the Reference Court primarily on the ground that in cross examination it was admitted by one of the appellants that they received compensation on 23.12.2002, whereas reference petition under Section 18 of 1894 Act was filed on on 11.09.2012 i.e. almost after 10 years.

4. Impugning the aforesaid decision dated 30.11.2016, learned counsel for the appellants submits that no issue was framed regarding the aspect of limitation and therefore, dismissal of reference on that ground was not justified. He further submits that landowners are poor persons having no knowledge of intricacies of law and when they came to know that this Court has enhanced the compensation to Rs.32,27,200/- per acre in RFA No.751 of 2012 '**Gopi Ram Yadav and others Vs. State of Haryana and others**' and other connected appeals on 04.02.2016, they immediately filed the reference petition.

5. On the other hand, learned counsel for respondent No.3 submits that one of the appellants has admitted the fact that they have received the compensation awarded by LAC on 23.12.2002 itself, while reference under Section 18 came to be filed on 11.9.2012 i.e. after a

period of 10 years, which is time barred and therefore, Reference Court has rightly dismissed the same.

6. I have heard learned counsel for parties and gone through the paper-book. I am unable to find any substance in the arguments raised by the learned counsel for the appellants.

7. One of the appellants - Ram Kanwar who appeared as PW1, in his cross-examination, admitted the fact that appellants had already received the compensation awarded by LAC. This fact was also substantiated by Sanjay Kumar, Manager, HSIIDC (RW1) in his examination-in-chief that appellants had received compensation on 23.12.2002. Fact of receiving the compensation in 2002 itself has not been denied by the learned counsel for the appellants during arguments as well. In that circumstance, it cannot be denied that reference filed under Section 18 of 1894 Act on 11.9.2012 i.e. after a period of 10 years is beyond limitation period.

8. Legal issue applicable in the present petition; that what shall be the limitation period in cases where landowners had already received the compensation and whether Reference Court can dismiss the petition on the ground of limitation without framing any specific issue in this regard, has been discussed and dealt by this Court in detail in case of "**Dinesh Kumar & Others vs. State of Haryana & Others**" RFA-442-2015, relevant para of which is reproduced hereunder:-

"20. Thus, as a crux of the discussion made hereinabove, following points of law may be summarized on the basis of the judgments of the Hon'ble Apex Court:-

- i) *"The date of the award" used in the section 18(2)(b) must be the date when the award is either communicated to the party or is known by him either actually or constructively. [**"Raja Harish Chandra Raj Singh v. The Deputy Land Acquisition officer"**, reported as AIR 1961 Supreme Court]*
- ii) *Date on which compensation was received can be conclusively taken as the date of knowledge of award and application for a reference has to be made within six months from this date. [**"State of Punjab v. Mst Qaisar Jehan Begum and another"**, reported as AIR 1963 Supreme Court 1604]*
- iii) *Actual or constructive knowledge of the contents of the award can be established by the Collector by proving that the person interested had received or drawn the compensation amount for the acquired land. [**"Bhagwan Das & Ors. v. State of U.P. and Ors."**, reported in AIR 2010 Supreme Court 1532]*
- iv) *The purpose of giving 6 months, when limitation in a particular reference is covered by the second part of 18(2)(b), is that once the landowner gets knowledge of the award, he could make sincere efforts to get a copy of the award and then accordingly make a reference application. [**"Premji Nathu v. State of Gujarat and Anr."**, reported as AIR 2012 Supreme Court 1624]*
- v) *Making of an application for reference within the time prescribed by proviso to Section 18, sub-section (2) is a sine qua non for a valid reference by the Collector and therefore, it is the duty of reference Court to see that the reference made to it by the Collector under Section 18 complies with the conditions laid down therein so as to give the court jurisdiction to hear the reference. [**"Mohd. Hasnuddin v. State of Maharashtra"** reported as (1979) 2 SCC 572]"*

9. In view of the discussion made above, it is held that learned

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petition barred by limitation and this appeal is thus dismissed being devoid of any merit.

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

October 20, 2023
sanjay

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No