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

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Date of Decision: 03.05.2024+ **W.P.(C) 13872/2021****VED PRAKSH (DECEASED)
THROUGH HIS LRS & ORS.**

..... Petitioners

Through: Mr. B.P. Gupta & Mr. Rajesh Gupta,
Adv.

Versus

LAND ACQUISITION COLLECTOR

..... Respondent

Through: Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha, Mr. M.S. Akhtar, Ms.
Nidhi Thakur, Mr. Mayank Arora, Ms.
M. Benazir & Mr. Mayank Madhu,
Adv.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MS. JUSTICE TARA VITASTA GANJU****VIBHU BAKHRU, J. (Oral)**

1. The petitioners have filed the present petition, *inter alia*, praying that directions be issued to the Land Acquisition Collector (hereafter *LAC*) to forward their reference under Section 18 of the Land Acquisition Act, 1894 (hereafter *LA Act*). The petitioners claim that their land comprised in Khasra Nos.592 min (5-17) and 593 (5-7) situated in the revenue estate of village Kilokari, New Delhi (hereafter *the subject land*) was acquired in terms of an Award No.9/1999-2000, dated 31.03.2000. The petitioners claim that they became aware of the said award on 24.12.2003, when the LAC tendered the compensation for the acquisition of the subject land.

2. It is not in dispute that no notice under Section 12(2) of the LA Act was served to the petitioners. Immediately after receiving the compensation and



after becoming aware of the award in question, the petitioners filed a reference under Section 18 of the LA Act on 06.02.2004. The said reference was not forwarded by the concerned LAC to the concerned court on the ground that the same was barred by limitation. The concerned LAC sent a communication dated 04.01.2021 (hereafter *the impugned communication*) informing the petitioners that the reference dated 06.02.2004 filed by them was beyond the period of limitation.

3. It is the petitioners' case that the question of limitation is required to be decided by the Reference Court and not by the LAC. The learned counsel appearing for the petitioners' relies on the decision dated 08.05.2017 of the Division Bench of this Court in W.P.(C) No.2318/2014 captioned ***Arpit Bhargava v. GNCT of Delhi & Ors.*** in support of this contention. The relevant extract of the said decision reads as under:

“14. In the light of the above discussion and analysis, the following directions are issued:

(6) Wherever the land owners or any petitioners have applied for enhancement of compensation, under Section 18 of the Land Acquisition Act and wherever reference applications are not forwarded, the Land Acquisition Collector shall, after verifying that applications were received, refer them to the competent court. The issue of limitation, if any shall be considered by the reference court, in accordance with law.”

4. He also relies on the decision of the Supreme Court in ***Madan & Anr. v. State of Maharashtra: (2014) 2 SCC 720***. In the said decision, the Supreme Court considered the question whether limitation would commence from the date of the award in terms of the proviso to Section 18 of the LA Act. The Supreme Court held that the said words could not be construed in a



literal or mechanical manner. In particular, the Supreme Court also noted the following findings recorded by the Reference Court:

“9.....the petitioners had no knowledge about the passing of the award till the date of payment of compensation on 5.9.1991 because they were held entitled to receive the compensation after the decision of Reference under Section 30 dated 4.9.1991.”

And, after taking note of the aforesaid finding, the Supreme Court held as under:

“10. What transpires from the above is that it is for the first time on 4.9.1991 (date of the order under Section 30 of the Act) that the appellants came to know that they were entitled to compensation and the quantum thereof. It is not in dispute that the Reference under Section 18 was made within 6 weeks from the said date i.e. 4.9.1991. In the above facts, it is difficult to subscribe to the view taken by the High Court to hold that the Reference under Section 18 was barred by limitation.

11. 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.”

5. Mr. Sanjay Kumar Pathak, the learned counsel appearing for the respondent countered the submissions made on behalf of the petitioners. He referred to the decision of the Supreme Court in *Officer on Special Duty (Land Acquisition) & Anr. v. Shah Manilal Chandulal & Ors.: (1996) 9 SCC 414* and drew the attention of this Court to Paragraph 8 of the said decision, which reads as under:

“8. The right to make application in writing is provided under Section 18(1). The proviso to subsection (2) prescribes the limitation within which the said right would be exercised by the claimant or dissatisfied owner. In *Mohd. Hasnuddin v. State of Maharashtra* (1979) 2 SCC 572, this Court was called upon to decide in a reference under Section 18 made by the Collector to the court beyond the period of limitation, whether the court can go behind the reference and determine the compensation, though the application for reference under Section 18 was barred by limitation? This Court had held that the Collector is required under Section 18 to make a reference on the fulfilment of certain conditions, namely, (i) written application by interested person who has not accepted the award; (ii) nature of the objections taken for not accepting the award; and (iii) time within which the application shall be made. In para 22 after elaborating those conditions as conditions precedent to be fulfilled, it held that the power to make a reference under Section 18 is circumscribed by the conditions laid down therein and one such condition is a condition regarding limitation to be found in the proviso. The Collector acts as a statutory authority. If the application is not made within time, the Collector will not have the power to make reference. In order to determine the limitation on his own power, the Collector will have to decide whether the application presented by the claimant is or is not within time and specify the conditions laid down under Section 18. Even if the reference is wrongly made by the Collector, the court will have to determine the



validity of the reference because the very jurisdiction of the court to hear a reference depends upon a proper reference being made under Section 18. If the reference is not proper there is no jurisdiction in the court to hear the reference. It was, therefore, held that it is the duty of the court to see that the statutory conditions laid down in Section 18 including the one relating to limitation, have been complied with and the application is not time-barred. It is not debarred from satisfying itself that the reference which it is called upon to hear is a valid reference. It has to proceed to determine compensation and if it is time-barred, it is not called upon to hear the same. It is only a valid reference which gives jurisdiction to the court. Therefore, the court has to ask itself the question whether it has jurisdiction to entertain the reference. If the reference is beyond the prescribed period by the proviso to sub-section (2) of Section 18 of the Act and if it finds that it was not so made, the court would decline to answer the reference. Accordingly, it was held that since the reference was made beyond the limitation, the court was justified in refusing to answer the reference.”

[emphasis added]

6. Mr Pathak pointed out that the said decision was not brought to the attention of this Court in *Arpit Bhargava v. GNCT of Delhi & Ors.* (*supra*), which is relied upon by the learned counsel for the petitioners. He also seeks to distinguish the decision of the Supreme Court in *Madan & Anr. v. State of Maharashtra* (*supra*) on the ground that in the said case there was some dispute in respect of the entitlement of the parties to receive compensation. However, he fairly stated that there have been cases where the issue of limitation has been left to be decided by the Reference Court and it is not in all cases that the LAC decides the issue of limitation.

7. The decision in the case of *Madan & Anr. v. State of Maharashtra* (*supra*) sets out a fundamental rationale for reckoning the commencement of limitation for availing remedies – the same would run from the date of knowledge as to the cause or the date when such knowledge could be reasonably imputed. We are unable to accept that the proviso to Section 18 of



the LA Act is required to be construed in disregard to the said principle. In the present case, no notice was issued to the petitioners under Section 12 of the LA Act and the petitioners became aware of the same only on receipt of compensation.

8. In the peculiar facts of this case, we consider it apposite to allow the present petition and direct the concerned LAC to forward the petitioners' reference to the concerned Court. The impugned communication rejecting the petitioner's request to forward the reference to the concerned Court, is set aside.

9. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 03, 2024

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Click here to check corrigendum, if any