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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6206/2022**

SHRI ISHWAR SINGHPetitioner

Through: Mr. Vipin K. Singh, Adv.

versus

GOVT. OF NCT OF DELHI, THROUGH LAND ACQUISITION
COLLECTORRespondent

Through: Mr. Sanjay Kumar Pathak ,SC, Mr.
Sunil Kumar Jha , Mr. M S Akhtar,
Mr. Mayank Madhu, Mr. Sami
Sameer Sidhhique(M: 7909015592)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% **20.12.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner-Shri Ishwar Singh under Article 226 of the Constitution of India challenging the impugned order no. *ADM/LAC/SW /2019-20/88633* dated 10th December, 2019, passed by the Respondent, whereby the application of the Petitioner under Section 18 of the Land Acquisition Act, 1894 (hereinafter "*the Act*") has been rejected on the ground of being time barred.
3. *Vide* the said application under Section 18 of the Act, the Petitioner had sought reference of his matter to the relevant Court for determination of the market value of the Petitioner's land being *Khasra No. 10* (Lal Dora), in the revenue district of village Bijwasan, Delhi (hereinafter "*subject land*").
4. The brief facts are that according to the Petitioner the subject land was purchased by the Petitioner's father way back in 1968 from one Smt. Shanti



Devi. The acquisition proceeding in respect of the subject land is stated to have commenced on 4th February, 2010, with issuance of the notification under Section 4 of the Act. The notification under Section 6 and 17 of the Act was issued on 11th January, 2011. The subject land is stated to be a part of a larger parcel of land that was being acquired.

5. In respect of the subject land, the Petitioner is stated to have filed a claim before the concerned Land Acquisition Collector (hereinafter “LAC”). On 1st February, 2012, the **Award No. 02/2012/ROB/LAC/SH** (hereinafter “*the Award*”) was passed by the Respondent in respect of the acquired land including the subject land. The notice under Section 12(2) of the Act was also issued to the Petitioner on 10th February, 2012, through speed post.

6. It is the case of the Petitioner that he did not receive any notice in respect of passing of the Award. As per the LAC, the reason for the non-issuance of notice was that the Petitioner’s name was not recorded in the relevant revenue records. Thus, the compensation was recorded and assessed in the name of the predecessor in interest *qua* the subject land *i.e.*, the seller from whom the Petitioner’s father had purchased the subject land, namely Smt. Shanti Devi.

7. The Petitioner is stated to have then obtained a NOC from the said predecessor in interest and furnished the same before the concerned LAC. Accordingly, the payment of Rs. 22 Lakhs was released in favour of the Petitioner on 22nd May, 2012.

8. Thereafter, the Petitioner wanted to seek enhancement of the said compensation and accordingly, on 30th July, 2012, the Petitioner had filed an application before the concerned LAC seeking reference under Section 18 of the Act. The said reference petition for enhancement was rejected *vide* the



impugned order on the ground of being time barred.

9. The submission of the Id. Counsel for the Petitioner is that since the Petitioner had never received notice of the Award itself, until his name was properly recorded in the revenue records, the date of pronouncement of the said Award cannot be reckoned as the date for calculating the limitation period for filing the application under Section 18 of the Act. In any event, it is his submission that the reference petition was still within the limitation period in view of Section 18(2) of the Act, which prescribes a period of 6 months from the date of the Collector's Award for filing of a reference in cases where the applicant was not present or represented before the Collector at the time when the Award was made.

10. Ld. Counsel for the Respondent disputes this position and submits that once the notice under Section 12(2) of the Act was issued to the Petitioner as recorded in the impugned order dated 10th December, 2019, through speed post, the limitation would be reckoned as one month from the said date.

11. The Id. Counsel for the Petitioner has relied on the decision of a Co-ordinate Bench of this Court in *W.P.(C) 7817/2017* titled ***Chet Singh Rana Vs Union of India***.

12. In the present case, the Award itself is dated 1st February, 2012, and the reference has been filed on 30th July, 2012, within the six months period. The fact that the compensation was paid on 22nd May, 2012, itself would prove the Petitioner's case that the notice of the Award was not received as he was not the recorded owner in the revenue records.

13. Considering the above discussion, the Court is persuaded to follow the decision in ***Chet Singh Rana (supra)*** where the Court *vide* order dated 5th September, 2017, had observed as under:



“We have heard learned counsel for the parties. Without expressing any opinion on the merits of the issue of limitation, the Court is of the view that the reference petition – which is the only opportunity provided by law to a land owner to establish his case for higher compensation by leading evidence, should be forwarded under Section 18 of the 1894 Act. At the same time, it is open to the reference Court to decide the issue of limitation, if so raised by the respondent, in opposition to the maintainability.

In view of the above, the order dated 31.01.2017 is set-aside. The LAC shall also forward the reference to the competent court within six weeks. All questions of law, including the issue of limitation are kept open. The writ petition is allowed in the above terms.”

14. Accordingly, it is directed that the reference under Section 18 of the Act sought by the Petitioner be forwarded to the concerned Court for adjudication.
15. Needless to state, if the LAC wishes to raise the aspect of limitation, it may do so before the Reference Court.
16. Insofar as the interest aspect is concerned, the question as to whether any interest would be liable to be paid, for the period from 2012 to till date, if there is enhancement of compensation, shall also be examined by the Reference Court and the interest shall not be calculated automatically, for the entire period.
17. The Petition is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

AMIT SHARMA, J

DECEMBER 20, 2024/kr/vc/ms