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

+ W.P.(C) 12060/2024 CM APPL. 50231/2024

MR SUDHIR SOOD ANR.

.....Petitioner

Through: Mr. L.B. Rai, Mr. Vineesh Tyagi and
Ms. Prachi Hasija, Advocates.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Sanjay Kumar Pathak, SC for
UOI alongwith Mrs. K. Kaomudi
Kiran Pathak, Mr. Sunil Kumar Jha
and Mr. M.S. Akhtar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

02.09.2024

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1. Issue notice.
2. The learned counsel appearing for the respondent accepts notice.
3. The petitioners have filed the present petition impugning an order dated 19.07.2024 (hereinafter *the impugned order*) passed by the respondent (Land and Acquisition Collector – hereafter *LAC*) whereby the application preferred by the petitioner for reference under Section 18 of the Land Acquisition Act, 1894 (hereafter *LA Act*) was rejected as being time barred.
4. The petitioners state that they owned the land admeasuring 1000 sq. yds. comprised in Khasra Nos. 8//13 and 8//18 in the Revenue Estate of Village Baprolla, Delhi (hereafter *the subject land*). The possession of the subject land was acquired by the LAC for the purpose of “*Construction of 30 meter road Nangloi - Najafgarh road to Bakkarwala Mega Project*”.



5. A notification under Section 4 of the LA Act was issued on 08.10.2004. The same was also followed by a declaration dated 31.12.2004 issued under Section 6 of the LA Act.
6. Thereafter, on 27.12.2006, the LAC passed an award (bearing no. 5/DC(W)/2006-07) in respect of the subject land. The petitioners claim that they were not aware of the contents of the said award but by abundant caution, filed an application for reference under Section 18 of the LA Act before the LAC on 28.09.2007.
7. There were some disputes as to the petitioners' interest in the subject land and the same was referred to the learned Additional District Judge. The said reference under Sections 30-31 of the LA Act was decided on 20.08.2016.
8. The petitioners contend that their right to receiving compensation stood crystallised by virtue of the order dated 20.08.2016. The petitioners had not received any notice under Section 12(2) of the LA Act. Further, the name of the petitioners was not mentioned in the award in question.
9. After the petitioners' interest in the subject land was determined in terms of the order dated 20.08.2016, the petitioners filed an application for making reference under Section 18 of the LA Act. The said application was rejected by the impugned order on the ground that it was barred by limitation.
10. The LAC has held that the award in question was announced on 27.12.2006 and the reference was required to be made within a period of six weeks thereafter. Since the petitioners had failed to make the reference within the said period, the same was barred.
11. The learned counsel for the petitioner has referred to the decision of



the Supreme Court in *Madan & Anr. Vs. State of Maharashtra (2014) 2 SCC 720* in support of its contention that the time limit for making an application to the LAC for reference under Section 18 of the LA Act would commence on the petitioners' interest being determined in terms of Section 30-31 of the LA Act.

12. In *Madan & Anr. Vs. State of Maharashtra (supra)*, the Supreme Court has held that a reference under Section 18 of the LA Act be legitimately sought by the claimant only after the question of apportionment is decided under Section 30 of the LA Act. Paragraph 11 of the said decision reads as under:-

“11. A cursory glance at 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 crystallise 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.”



13. The learned counsel appearing for the respondent readily accepts that the said decision covers the issue. However, he submits, that the petitioners had made an application for reference under Section 18 of the LA Act on 28.09.2007 – which was prior the decision in the reference under Section 30-31 of the LA Act – therefore, the petitioners were aware of the award.

14. The petitioners claim that the application dated 28.09.2007 for reference under Section 18 of the LA Act was made by abundant caution.

15. It is not disputed that the name of the petitioners did not feature in the award in question and the petitioners had not been issued any notice under Section 12(2) of the LA Act.

16. As noted above, the learned counsel for the respondent does not controvert that the right to make an application for reference under Section 18 of the LA Act would arise only after such right crystallizes upon the determination under Section 30 of the LA Act, particularly, when the name of the land owner is not mentioned in the award.

17. In view of the above, we are inclined to accept the petitioners' contention that their application dated 28.09.2007 for making a reference was made by abundant caution. They would be entitled to make the said application after the question of their interest in the subject land was determined. Since, the petitioners had filed their application for a reference under 18 of the LA Act, within the stipulated period after the order dated 20.08.2016, their application could not be rejected on the ground of limitation.

18. We, accordingly, direct the LAC to make a reference under Section 18 of the LA Act in respect of the subject land. It is, however, clarified that all rights and contentions of the parties, on merits, are reserved.



19. The present petition is allowed in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 02, 2024

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