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

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Date of Order: 23.10.2024

+ **LA.APP. 233/2018**

JAGDISH

.....Appellant

Through: Mr. L.B. Rai, Mr. Kartik Rai & Mr.
Vineesh Tyagi, Advocates.

versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Sanjay Kumar Pathak, SC for
UOI with Mrs. K.K. Kiran Pathak,
Mr. Sunil Kumar Jha, Ms. Mussarrat
& Mr. Sami Sidhiqui, Advocates for
R-1/UOI.

Mr. Roshan Lal Goel, Mr. Bhuvan
Goel & Mr. Shubham Grover,
Advocates for R-2/DDA.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (ORAL)

1. Counter Affidavits have been filed by the Respondents.
2. Learned Counsel for the Appellant submits that he does not wish to file a Rejoinder in the matter.
3. The present Appeal has been filed under Section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as "LA Act"] impugning the judgment dated 05.09.2017 and a Review Order dated 27.07.2018 [hereinafter referred to as "Impugned Judgment"], both passed by the



learned ADJ, Tis Hazari Court, Delhi in the case captioned as ***Jagdish v. Union of India.***

4. By the Impugned Judgment, the Petition filed by the Appellant under Section 18 of the LA Act has been dismissed on the ground that it was barred by limitation.

5. The land in issue is the acquired land comprising in Khasra Nos. 12//8/2 (0-05), 12//9/2 (4-10), 12//10/1 (3-16), 12//11/1 (3-04), 13//15/2 (0-4), total land measuring 12 Bigha 19 Biswas, the Petitioner having 1/6th share i.e. 2 Bigha 03 Biswas, situated in the revenue estate of Village Bakkarwala, Delhi.

6. Notice in this Appeal was issued on 07.12.2018. Pursuant thereto, Respondent Nos.2/DDA filed their Counter-Affidavits opposing the Appeal.

7. Learned Counsel for the Appellant submits that the Appellant was the bhumidhar/owner of the total land 12 bigha 19 biswas having 1/6th share in the land situated in the revenue village Bakkarwala, Delhi. The notification under Section 4 of the LA Act was issued on 17.06.2005 and declaration under Section 6 of the LA Act on 31.05.2006, thereafter, the land of the Appellant was acquired vide Award NO.1/DCW/2006-2007 village Bakkarwala, Delhi.

7.1 It is further contended that since the share of the Appellant was not determined, the learned LAC (West) referred the matter under Sections 30 and 31 of the LA Act to the Court of the learned ADJ for calculation of appropriation of the compensation amount. The learned Trial Court by Judgment dated 02.11.2015 [hereinafter referred to as “Appropriation Judgment”] decided the same and released the disputed compensation in



favour of the Appellant.

7.2 It is further submitted that within six weeks of the passing of the Appropriation Judgment, the Reference Petition under Section 18 of the LA Act was filed by the Appellant seeking an enhanced value of the acquired land at the rate of Rs.10,000/- per sq. yard along with cost of trees and loss of business/livelihood etc.

8. Learned Counsel for the Appellant submits that, it was thereafter on 01.12.2015, the Petition filed under Section 18 of the LA Act was filed before the learned Trial Court.

9. Relying on the judgment of the Supreme Court in *Madan & Anr. vs. State of Maharashtra*¹, which has been followed by a Division Bench of this Court in *W.P.(C) 12060/2024 titled Mr.Sudhir Sood Anr v. UOI dated 02.09.2024*, learned Counsel for the Appellant submits that the limitation for filing the Petition would have only arisen once the decision of the learned Trial Court had come in the Petition under Sections 30 and 31 of the LA Act. Thus, the Petition filed on 01.12.2015 was filed within six weeks from the Appropriation Judgement.

10. Learned Counsels for the Respondents do not dispute the fact that there was an earlier Petition pending which was decided on 02.11.2015. This also forms part of the Impugned Judgment.

11. The learned Trial Court found that the reference under Sections 30 and 31 was made on 15.03.2008 and that the Appellant/Petitioner was served on 22.09.2008 and a claim was filed by him on 19.03.2009. Thus, in

¹ (2014) 2 SCC 720



the year 2009, the Petitioner had actual and constructive knowledge of this award. Applying Section 18 of the LA Act, it was held by the learned Trial Court that the date of knowledge was 2009 and that the reference Petition was barred by limitation.

12. The Supreme Court in ***Madan & Anr.*** case has held that it is only after the question of apportionment under Section 30 of the LA Act is crystalized, that a reference under Section 18 of LA Act can be legitimately sought. The relevant extract is below:

“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.”

[Emphasis supplied]

13. As stated above, in the present Case, the Appropriation Judgment came on 02.11.2015 and thereafter, that the Petition under Section 18 of the LA Act, was filed by the Appellant. It is not disputed that the Reference Petition was filed within six weeks of the date of the Apportionment Judgment.



14. Given this position and relying on the judgment of the Supreme Court in *Madan & Anr* case, since the Appellant had filed its Application for Reference under Section 18 of the LA Act within the stipulated period after the Appropriation Judgment, the Application could not be rejected on the ground of limitation.

15. In view of the foregoing discussion, the Impugned Judgment is set aside.

16. The learned Trial Court shall adjudicate the reference Petition afresh. All rights and contentions of both parties on merits are however reserved.

17. The Appeal is disposed of accordingly.

TARA VITASTA GANJU, J

OCTOBER 23, 2024/ ha

Click here to check corrigendum, if any