



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.576 OF 2010

1. Arun S/o Dharmaraj Budhe, Aged about 35 years, Occ. Cultivator,
2. Tularam S/o Dharmaraj Budhe Aged about 45 years, Occ. Cultivator,
3. Sudhir S/o. Dharmaraj Budhe, Aged about 38 years, Occ. Cultivator
4. Sanjay S/o. Dharmaraj Budhe, Aged about 31 years, Occ. Cultivator,
5. Smt. Vatchala Wd/o. Dharmaraj Budhe, Aged about 65 years, Occ. Cultivator.

All R/o. Gopiwada, Post. Shahapur, Tahsil and District Bhandara.

(Name of respondent no. 5 deleted as per Court's order dated 06.12.2013.)

... APPELLANTS

VERSUS

1. The State of Maharashtra, through Collector, Bhandara.
2. The Land Acquisition Officer/ Sub-Divisional Officer, Bhandara, Tahsil and District Bhandara.

... RESPONDENTS

Shri A.P. Thakre, Advocate for the appellants.
Shri H.D. Futane, AGP for respondents.

CORAM : PRAVIN S. PATIL, J.
DATE : 08.10.2025.

ORAL JUDGMENT :

1. Heard.
2. The appellants herein are the original claimants raised a grievance that learned Reference Court without considering the factual position has rejected the reference proceeding on the ground of limitation. Hence, the appellant is before this Court by way of this appeal
3. The facts of the present appeal which are not disputed are that respondents acquired the agricultural land bearing Gat No.55 of Mouza Gopiwada, Tq. and Dist. Bhandara owned by the appellant ad-measuring 2.52 HR vide Notification dated 16.12.1996. At that time, the compensation was awarded Rs.4,47,360/-. According to the appellants, though this Award was passed, he received the notice under Section 12 of the Land Acquisition Act on 03.11.2004. The same is the part of record i.e. Exhibit 4(1). According to him, after receipt of notice, he has preferred reference proceedings under Section 18 on 13.12.2004 i.e. within the

limitation. Hence, according to the appellants, the Reference Court ought to have decide the Reference proceeding on its own merits in the matter.

4. *Per contra* learned AGP appearing for the respondents/State states that final award clearly shows that while issuing the notice under Section 6(2) of the Land Acquisition Act, the public notice was issued to call the objections from the villagers for the acquisition of land. At that time, the villagers have raised their objection. Hence, according to the learned AGP the appellants were aware about the proceeding and therefore, they cannot raise a grievance that they was not aware of the date of final award in the matter, and consequently, he cannot take the benefit of limitation by stating that as the notice was received on 03.11.2004, he has filed the proceedings within limitation in the matter.

5. In the background of above said factual position, learned Counsel for the appellants has relied upon Section 18 of the Land Acquisition Act, which is reproduced as under :

“Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested. (2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made- (a) if the person making it was present or represented before

the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”

6. Bare perusal of the provisions demonstrates that the procedure is incorporated for filing the reference and the proviso of the same, specifically states that the person, who was present before the Collector while passing the Award is required to file the reference proceeding within a six weeks from the date of Collector's award and in other cases within six weeks from the date of receipt of notice from the Collector under Section 12 of the Land Acquisition Act.

7. According to the appellant admittedly, they were not present before the Collector while passing the Award. Learned AGP failed to point out from the record that appellants were present at the time of passing the Award by the Collector. Therefore, according to me, the cause of action arose to the appellants to file the Reference proceedings, when they received notice under Section 12 of the Act.

8. In present appeal, the appellants has specifically pointed out from the reference application filed before the Reference Court, that specific averments was made in their application that they received the notice under Section 12 on 03.11.2004. The present respondents, who

have filed their reply before the Reference Court, did not dispute this fact and only stated that it is a matter of record and gave no specific reply to the same. As such, in absence of any contest on this issue, the learned reference court ought to have relied upon the statement of appellants that they received the notice under Section 12 on 03.11.2004.

9. Learned Counsel for the appellants has also relied upon the judgment of the Co-ordinate Bench of this Court in the case of ***Laxmi vs. State of Maharashtra 2016(4) Mh.L.J. 176***, wherein in paragraph 3 this Court observed as under :

“3. In the cases falling in the first part of clause (b) in the proviso below sub-section (2) of Section 18 of the said Act, the reference has to be filed within a period of six weeks of the receipt of notice under sub-section (2) of Section 12 of the said Act from the Collector. In such a situation, the period of limitation shall start running from the date of receipt of the knowledge of the essential contents of the award from the Collector and "the date of the Collector's award", as mentioned in clause (a) loses its significance. To count the period of limitation from "the date of the Collector's award", shall violate the first part of clause (b) below sub-section (2) of Section 18 of the said Act. Once it is shown that the case is not covered by clause (a), then it is the date of receipt of the knowledge of the essential contents of the award from the Collector as required by sub-section (2) of Section 12 of the Act, becomes significant. The reference beyond the period of six weeks from such date will be barred by the law of limitation. In the present case, notice under subsection (2) of Section 12 was received by the claimant on 18.06.1992 and the reference was sought on 23.07.1992 i.e. on the last date of six weeks of the receipt of notice under sub-section (2) of Section 12 of the said Act. Hence, the reference was within a period of limitation as prescribed in clause (b). ”

10. In view of the above said factual as well as legal position, I am of the opinion that the reference proceeding was filed by the present appellants well within limitation as per Section 18 of the Land Acquisition Act. Hence, I proceed to pass the following order :

- (a) The First Appeal is allowed.
- (b) The impugned judgment and Award dated 14.12.2006 passed by the Reference Court in Land Acquisition Case No.6/2005 is hereby quash and set aside.
- (c) The matter is remitted back to the Reference Court i.e. Ad-hoc District Judge-1, Bhandara, for deciding it afresh on its own merits, as an earliest considering the fact that matter is of year 2005.
- (d) Office is directed to send the records and proceedings to the concern Reference Court.

11. The Appeal stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

Trupti