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

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Date of Decision : 30.01.2025

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W.P.(C) 8664/2021 CM APPL. 26860/2021

SHAMSHER SINGH RANA

.....Petitioner

Through: Mr. A. K. Singh, Mr. Kamlesh
Kawal and Mr. Haridwar Singh,
Advs.

versus

GOVT OF NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Rajneesh Kr. Sharma, Mr. Ritank
Kumar and Mr. Anil Pandey, Advs.
for LAC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

VIBHU BAKHRU, J. (ORAL)

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 10.12.2019 (hereafter *the impugned order*) passed by the Land Acquisition Collector (hereafter *the LAC*) declining to forward the petitioner's reference filed under Section 18 of the Land Acquisition Act, 1894 (hereafter *the LA Act*).
2. The petitioner's reference dated 13.08.2012 filed under Section 18 of the LA Act was declined on the ground that it was barred by limitation. The



petitioner claims that he owned certain lands situated in the revenue estate of urbanized village Bijwasan (hereafter *the subject lands*), which were subject matter of Notification under Section 4 of the LA Act issued on 04.02.2010. It is stated that a Notice under Section 9 of the LA Act was also issued to the interested persons. Thereafter, an award being award No. 02/2012, dated 01.02.2012 (hereafter *the Award*) was published, which also covered the subject lands. It is the petitioner's case that the Award was not rendered in his presence and he did not receive any communication regarding making of the Award. The petitioner further states that at the material time he was a minor and his brother was residing overseas (in Sri Lanka). He became aware of the Award from the other co-claimants at the time when the compensation for the same was being disbursed.

3. The petitioner collected the compensation on 01.08.2012 and thereafter on 13.08.2012 (together with his brother) made a reference under Section 18 of the LA Act. The said reference was not forwarded for several years. Finally, on 10.12.2019, the LAC declined to forward the same on the ground that the same was barred by limitation, by the impugned order.

4. The impugned order indicates that it is premised on the basis that the notice under Section 12(2) of the LA Act, was issued and served to the petitioner on 10.02.2012. This is stoutly contested by the petitioner. According to him, he had not received any notice under Section 12(2) of the LA Act.

5. The LAC has filed a counter affidavit affirming that on 10.02.2012 a notice under Section 12(2) of the LA Act was issued and the same was 'duly served upon the petitioner'. This is the principal bone of contention between the parties.



6. The learned counsel appearing for the LAC fairly states that the averments made in the counter affidavit may not be entirely correct as the record does not reflect any service of the notice to the petitioner. He explains that the averment that a notice under Section 12(2) of the LA Act was issued to the petitioner on 10.02.2012 is premised on a file noting, which directed that such notice be issued to all beneficiaries. However, admittedly, there is no material to show that the notices were, in fact, dispatched or served.

7. In view of the above, the respondent's contention that a notice under Section 12(2) of the LA Act was served on the petitioner must be rejected and the petitioner's contention that he has not received any notice must be accepted.

8. In view of the aforesaid, the period of limitation for filing a reference under Section 18 of the LA Act is required to be reckoned from the date on which the petitioner became aware of the Award. This, in the instant case was when the petitioner received compensation for the acquired subject lands.

9. The issue as to how the period of limitation is required to be computed has been authoritatively explained by the Supreme Court in the case of *Bhagwan Das & Ors v. State of U.P. & Ors.: (2010) 3 SCC 545*. We consider it apposite to extract the following passages from the said decision:

“24. When a land is acquired and an award is made under Section 11 of the Act, the Collector becomes entitled to take possession of the acquired land. The award being only an offer on behalf of the Government, there is always a tendency on the part of the Collector to be conservative in making the award, which results in less than the market value being offered.



25. Invariably, the land-loser is required to make an application under Section 18 of the Act to get the market value as compensation. The land-loser does not get a right to seek reference to the civil court unless the award is made. This means that he can make an application seeking reference only when he *knows* that an award has been made.

26. If the words six months from the “date of the Collector’s award” should be literally interpreted as referring to the date of the award and not the date of knowledge of the award, it will lead to unjust and absurd results. For example, the Collector may choose to make an award but not to issue any notice under Section 12(2) of the Act, either due to negligence or oversight or due to any ulterior reasons. Or he may send a notice but may not bother to ensure that it is served on the land owner as required under Section 45 of the Act. If the words 'date of the Collector's award' are literally interpreted, the effect would be that on the expiry of six months from the date of award, even though the claimant had no notice of the award, he would lose the right to seek a reference. That will lead to arbitrary and unreasonable discrimination between those who are notified of the award and those who are not notified of the award.

27. Unless the procedure under the Act is fair, reasonable and non-discriminatory, it will run the risk of being branded as being violative of Article 14 as also Article 300A of the Constitution of India. To avoid such consequences, the words “date of the collector’s award” occurring in proviso (b) to section 18 requires to be read as referring to the date of knowledge of the essential contents of the award, and not the actual date of the Collector's award.

28. The following position therefore emerges from the interpretation of the proviso to section 18 of the Act:

(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make the application within six weeks from the date of the Collector's award itself.

(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking reference within six weeks of the receipt of the notice from the Collector under Section 12(2).

(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the



notice under Section 12(2) from the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents of the award.

(iv) If a person interested receives a notice under section 12(2) of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot claim the benefit of the provision for six months for making the application on the ground that the date of receipt of notice under section 12(2) of the Act was the date of knowledge of the contents of the award.

29. A person who fails to make an application for reference within the time prescribed is not without remedy. It is open to him to make an application under section 28A of the Act, on the basis of an award of the court in respect of the other lands covered by the same acquisition notification, if there is an increase. Be that as it may.

30. When a person interested makes an application for reference seeking the benefit of six months period from the date of knowledge, the initial onus is on him to prove that he (or his representative) was not present when the award was made, that he did not receive any notice under Section 12(2) of the Act, and that he did not have the knowledge of the contents of the award during a period of six months prior to the filing the application for reference. This onus is discharged by asserting these facts on oath. He is not expected to prove the negative. Once the initial onus is discharged by the claimant/person interested, it is for the Land Acquisition Collector to establish that the person interested was present either in person or through his representative when the award was made, or that he had received a notice under Section 12(2) of the Act, or that he had knowledge of the contents of the award.

31. Actual or constructive knowledge of the contents of the award can be established by the Collector by proving that the person interested had received or drawn the compensation amount for the acquired land, or had attested the Mahazar/Panchnama/proceedings delivering possession of the acquired land in pursuance of the acquisition, or had filed a case challenging the award or had acknowledged the making of the award in any document or in statement on oath or evidence. The person interested, not being in possession of the acquired land and the name of the state or its transferee being entered in



the revenue municipal records coupled with delay, can also lead to an inference of constructive knowledge. In the absence of any such evidence by the Collector, the claim of the person interested that he did not have knowledge earlier will be accepted, unless there are compelling circumstances to not to do so.”

10. In view of the above, the reference under Section 18 of the LA Act could not be rejected on the ground that it was barred by limitation. The impugned order declining the petitioner’s prayer to forward reference under Section 18 of the LA Act, is set aside. The LAC is directed to forward the petitioner’s reference as expeditiously as possible, preferably within a period of four weeks from today, to the concerned court.

11. The petition is allowed in the aforesaid terms. The pending application is also closed.

VIBHU BAKHRU, J

TUSHAR RAO GEDELA, J

JANUARY 30, 2025
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