



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

FIRST APPEAL NO.410 OF 2014

Sau. Laxmibai Nilkanth Vabhitkar,
Aged about 51 years,
Occupation: Cultivator,
R/o Belgaon, Tq. Bhadravati,
District Chandrapur. **APPELLANT**

...V E R S U S...

State of Maharashtra through
Land Acquisition Officer,
Sub-Divisional Officer, Warora,
Tq. Warora, District Chandrapur. **RESPONDENT**

Shri A.P. Thakre, Advocate for Appellant.
Shri D.M. Kale, AGP for Respondent.

CORAM: R.K. DESHPANDE, J.
DATE: 25th JANUARY, 2016.

ORAL JUDGMENT

1] The reference under Section 18 of the Land Acquisition Act, 1894 registered as Land Acquisition Case No.6 of 2011 has been dismissed on 31.12.2012 solely on the ground that it is barred by limitation of six weeks as prescribed under Section 18 of the Land Acquisition Act. This Court issued notice for final disposal of the matter on 29.09.2014, and the record and proceedings were called. Shri D.M. Kale, the learned Assistant Government Pleader appears for the respondent. **Admit.** Heard finally by consent of the parties.

2] The point for determination in this case is as under:

Whether the Reference Court was right in holding that the reference sought for enhancement of compensation under Section 18 of the Land Acquisition Act was barred by time?

3] Section 18 of the Land Acquisition Act dealing with the reference and prescribing the period of limitation runs as under:

18. 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 persons 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.

In terms of clause (a) of proviso below sub-section (2) of

Section 18, if the person making the reference was present or represented before the Collector at the time when he made his award, then reference has to be filed within a period of six weeks from the date of Collector's award. If it is not filed within a period of six weeks, in such a situation, it shall be barred by the law of limitation. In the present case, the award was passed on 31.03.1992. It is not the case of the appellant or even of the respondent that the claimant was present or represented before the Collector on 31.03.1992 when the award was made. Hence, the provision of clause (a) below sub-section (2) of Section 18 of the said Act is not at all attracted in the present case.

4] 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 sub-section (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).

5] The Reference Court has held that the counsel for the claimant was present on 28.04.1992 and the next date given was on 18.05.1992. The *Roznama* further shows that on 18.05.1992, the husband of the applicant namely, Nilkantha and her Advocate Dambhare, were present and had signed the *Roznama*. The signatures of the applicant or his counsel on 28.04.1992 or 18.05.1992 are of no consequence for the reason that once it is shown that the case is not covered by clause (a), then to count the period of limitation from the date other than the date of receipt of notice under sub-section (2) of Section 12 of the Act would not only violate the provision of first part of clause (b) below sub-section (2) of Section 18 but shall cause prejudice to the rights of the claimants. In view of this, the Trial Court has committed an error in holding that the limitation for making reference starts running either on 28.04.1992 or 18.05.1992. The judgment and

order passed by the Reference Court cannot therefore, be sustained, and it will have to be set aside with an order of remand.

6] In the result, the appeal is allowed. The judgment and order dated 31.12.2012 passed in Land Acquisition Case No.6 of 2011 is hereby quashed and set aside. The matter is remitted back to the Reference Court to decide the same on its own merits. The parties to appear before the Reference Court on 22.02.2016. The Reference Court to decide the matter thereafter within a period of four months.

JUDGE

NSN