SUPREME COURT OF INDIA

Madan

Vs.

State Of Maharashtra

C.A.No.10863 of 2013

(P SathasivamCJ, Ranjana Prakash Desai and Ranjan Gogoi, JJ.)

06.12.2013

JUDGMENT

Ranjan Gogoi, J.

1. Leave granted.

2. This appeal is directed against the judgment and order dated 09.O9.2008 passed by the High Court of Bombay at Aurangabad holding the Reference made by the Collector under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") to be barred by limitation. The High Court, accordingly, reversed the Award dated 29.10.1993 passed by the Reference Court granting enhanced compensation to the appellants. Aggrieved, this appeal has been filed.

3. The brief facts of the case may be usefully recited as hereunder:

Acquisition of a total area of 8 Hectares 40 Ares covered by Survey No.49 situated at village Phule Pimpalgaon in Taluka Majalgaon of Beed District was initiated by a Notification under Section 4of the Act which was published in the gazette on 13.03.1980. No objection under Section 5A of the Act was filed by any person interested. Consequently, the Notification under Section 6 of the Act was published on 18.04.1982 and an Award was passed on 16.08.1985 granting compensation at the rate of Rs.50/- , Rs.65/- and Rs.75/- per Are respectively for different categories of land classified as Grade I, II and III in the Award. As there was a dispute with regard to the ownership of

the land, the Collector (Special Land Acquisition Officer) referred the matter to the civil court for apportionment of compensation under Section 30 of the Act. The Reference under Section 30made by the Collector which was registered and numbered as L.A.R. No. 94/1985 came to be disposed of by the learned Second Additional District Judge, Beed on 4.9.1991 holding that the present appellants (claimants 1 and 2) are entitled to compensation in respect of 20 acres of the acquired land and the remaining parties (claimants 3 to 7) for compensation in respect of remainder of the acquired land.

4. It appears that after the order dated 4.9.1991 was passed in the Reference under Section 30 of the Act, the appellants received the compensation on 5.9.1991. Though the precise date is not available, within six weeks from the date of the order dated 4.9.1991 the appellants sought a Reference under Section 18 of the Act for enhancement of the compensation awarded. The aforesaid Reference which was numbered as L.A.R. No. 75/1992 was decided by the Second Additional District Judge, Beed by order dated 29.10.1993 enhancing the compensation amount by an additional sum of Rs.2,10,000/- along with solatium, interest etc. as due under different provisions of the Act.

5. Aggrieved by the aforesaid Award dated 29.10.1993, the State of Maharashtra filed an appeal before the High Court questioning the enhancement of the compensation awarded and also contending that the Reference made was barred by limitation in view of the provisions of Section 18(2) of the Act. The High Court by the impugned order dated 09.09.2008 decided the appeal only on the issue of limitation by holding the same to be time barred. Accordingly, the appeal filed by the State was allowed and the Award passed by the Second Additional District Judge in L.A.R.No.75/1992 was reversed.

6. We have heard Mr. Sudhanshu S. Choudhary, learned counsel for the appellants and Mr. Anirudh P. Mayee, learned counsel appearing on behalf of the respondent-State.

7. Learned counsel for the appellants has vehemently urged that from the materials placed on record it is evident that the appellants did not participate in the enquiry leading to the Award dated 16.08.1985 passed by the Land Acquisition Collector. No notice of the Award under Section 12(2) of the Act was served on the appellants either. It is pointed out that the appellants became entitled to receive compensation under the Award only on 4.9.1991 i.e. the date of the order of the court in the Reference made under Section 30 of the Act. Such compensation was received by the appellants on 5.9.1991. Thereafter, the application for Reference under Section 18 of the Act was made within the period of 6 weeks from the date of the order passed under Section 30 of the Act. Relying on the decision of this Court in Raja *Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer & Anr*[1] learned counsel has urged that the date of knowledge of the Award referred to in Section 18(2), in the present case, has to be understood to be 4.9.1991 i.e. the date of the order under Section 30 of the Act. If that be so, according to the learned counsel for the appellants, the High Court was clearly in error in holding the

Reference under Section 18 of the Act to be barred by limitation. Another decision of this Court in *Dr. G.H. Grant Vs. The State of Bihar*[2], has been relied onto emphasize the true purport of Sections 18 and 30 of the Act.

8. Controverting the submissions advanced on behalf of the appellants, learned counsel for the State has contended that the appellants having claimed to be the owners of the land were at all times aware of the land acquisition proceeding leading to the Award dated 16.08.1985 passed by the Collector. According to the learned counsel for the State, the appellants, therefore, should have sought a Reference under Section 18 within the time prescribed by Section 18(2). In this regard, learned counsel for the State has pointed out that even under Section 18 of the Act it is open to an aggrieved party to seek a reference on the question of apportionment of the Award. The Award in the present case having been passed by the Land Acquisition Collector on 16.08.1985, the Reference under Section 18 for enhanced compensation made in the year 1991 is inordinately delayed and the conclusion of the High Court to the said effect is fully justified.

9. For ready reference it may be convenient to set out herein under the provisions of Sections 18and 30 of the Act:-

> “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.
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> (2) The application shall state the grounds on which objection to the award is taken:
> Provided that every such application shall be made,—
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> (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;
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> (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.” “30. Dispute as to apportionment.—When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”

10. From the order dated 29.10.1993 passed in L.A.R. No. 75/1992, it is, inter alia, clear that there was a dispute amongst the land owners (the appellants are one set of such land

owners) in respect of their respective shares in the acquired land on account of which no apportionment of compensation was made by the Collector who made a Reference under Section 30 of the Act to the court. Further, in the order dated 29.10.1993 it is recorded that the appellants had no knowledge of the Award till the order dated 4.9.1991 came to be passed in the Reference under Section. In Raja Harish Chandra Raj Singh (supra) this Court has held that the expression "the date of the award" used in proviso (b) to Section 18(2) of the Act must be understood to mean the date when the award is either communicated to the party or is known by him either actually or constructively. It was further held by this Court that it will be unreasonable to construe the words "from the date of the Collector's award" used in the proviso to Section 18 in a literal or mechanical way. In the present case, it has already been noticed that a finding has been recorded by the Reference Court in its order dated 29.10.1993 that "the petitioners had no knowledge about the passing of the award till the date of payment of compensation on 5.9.1991 because they were held entitled to receive the compensation after the decision of Reference under Section 30 dated 4.9.1991."

11. What transpires from the above is that it is for the first time on 4.9.1991 (date of the order under Section 30 of the Act) that the appellants came to know that they were entitled to compensation and the quantum thereof. It is not in dispute that the Reference under Section 18was made within 6 weeks from the said date i.e. 4.9.1991. In the above facts, it is difficult to subscribe to the view taken by the High Court to hold that the Reference under Section 18 was barred by limitation.

12. A cursory glance of 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 applies to situations where the apportionment made in the Award is objected to by a beneficiary there under, 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 30of 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 crystallize 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 decision of this Court in Dr. G.H. Grant Vs. The State of Bihar (supra) would also support the above conclusion. In the aforesaid case, an Award was made by the Collector on 25.3.1952. On 5.5.1952, the owner applied under Section 18 for a Reference to the court for enhancement of the compensation payable to him. While the matter was so situated, by notification dated 22.5.1952 issued under Section 3 of the Bihar Land

Reforms Act, 30 of 1950, the estate of the owner vested in the State. The possession of the land was taken over on 21.08.1952 under Section 16 of the Act. On 15.10.1952, a Reference under Section 30 was sought on behalf of the State. After noticing the different situations in which the provisions of Sections 18 and 30 of the Act would apply, this Court proceeded to hold the Reference sought by the State of Bihar under Section 30 of the Act to be competent in law on the ground that after the award was passed by the Collector the land had vested in the State by virtue of the notification dated 22.5.1952 under Section 3 of the Bihar Land Reforms Act, 1950. On a logical extension of the principle laid down in Dr. G.H. Grant Vs. The State of Bihar (supra) the State would have been entitled in law to claim enhanced compensation under Section 18 of the Act once its entitlement to receive such compensation is to be decided in its favour under Section 30. This is what has happened in the present case.

14. For the reasons aforesaid, we hold that the High Court had erred in allowing the appeal filed by the State and reversing the order dated 29.10.1993 passed by the Second Additional District Judge, Beed. The award of compensation in the instant case having been made by the Collector as far back as in the year 1985 and the amount involved being exceedingly small we have considered the basis on which enhancement of compensation was made by the learned Reference Court in its order dated 29.10.1993. On such scrutiny, we do not find any error in the view taken by the learned Reference Court. Therefore, in the peculiar facts of the case, while allowing this appeal and setting aside the order dated 09.09.2008 passed by the High Court we deem it proper to restore the order dated 29.10.1993 passed by the Second Additional District Judge in L.A.R. No.75 of 1995.

Judgment referred

[1]AIR 1961 SC 1500
[2]AIR 1966 SC 237