

(1988) 03 GUJ CK 0027

In the Gujarat High Court

Case No : Spl. Civil Application No"s. 6065 to 6079 of 1987

Bhikhubhlai and Others

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 08-03-1988

Acts Referred:

Land Acquisition Act, 1894 — Section 18
Limitation Act, 1963 — Section 5

Citation : (1988) 1 GLR 688

Hon'ble Judges : P.R. Gokulakrishnan, C.J;R.J. Shah, J

Bench : Division Bench

Advocate : P.B. Majmudar, for the Appellant; M.I. Hawa, for the Respondent

Judgement

P.R. Gokulakrishnan, C.J.—Rule. Mr. Hawa waives service of the rule on behalf of the respondents. With the consent of the learned Advocates, all these matters are taken up today.

2. All these Special Civil Applications are filed for quashing and setting aside the order at Annexure-A to the Special Civil Application and also to direct the respondent 2 in each of these petitions to make a reference to the District Court as prayed for by the petitioners by issuing a suitable writ, direction or order. All these matters pertain to the land acquisition effected by respondent 2. After the award was passed, the petitioners in each of these petitions wanted the matter to be referred under S. 18 of the Land Acquisition Act to the District Court for the purpose of getting enhanced compensation. The respondent 2 rejected the application on the ground that the application for Reference under S. 18 is time-barred and he has no power to condone the delay in preferring such an application, in order to refer the matter to the District Court under S. 18 of the Act.

3. As far as the reasons for the delay which comes to nearly four months in each of these cases, it has been stated that the Advocate who was representing the petitioners in each of these petitions was laid up and his whole family members,

including son and wife, were also laid up with fever and that is why the application for reference was not made within the period prescribed under S. 18 of the Act. Even though the reasons stated are sufficient and acceptable the respondent 2 was not able to exercise his jurisdiction on the premise that he has no jurisdiction to condone the delay.

4. In this connection, Mr. Majmudar, learned counsel appearing for the petitioners, brought to our notice a decision of this court in the case of Mohan Vasta Vs. State of Gujarat, , wherein it has been specifically held that Limitation Act and provisions contained in Ss. 4 to 24 of the Limitation Act are available and that S. 5 of the Limitation Act applies to an application for reference under S. 18 of the Land Acquisition Act. In view of this specific observation made by the Bench of our High Court, there cannot be any difficulty for the respondent 2 to condone the delay and refer the matter to the District Court under S. 18 of the Act.

5. We have already seen that the reason given for the delay, which is not much in these cases, is sufficient and acceptable and hence we do not think that the matters should be remanded to the respondent 2 for the he purpose of considering as to the sufficiency of the reasons given for such delay. Mr. Hawa, learned counsel appearing for the respondents, fairly states that these Special Civil Applications can be disposed of in view of the aforesaid decision by directing the respondent 2 to refer the cases to the District Court under S. 18 of the Act, after treating the reasons given by the petitioners for such delay as reasonable.

6. Taking all these aspects into consideration, we are convinced that the delay has occurred due to the unavoidable circumstances and the explanation offered, in our opinion, is reasonable and hence we direct the respondent 2 to refer all these matters to the District Court under S. 18 of the Act within six months from the date of receipt of the writ of this court.

7. For all these reasons, all these Special 17.T Civil Applications are allowed with the above said directions. Rule is made absolute in each of these petitions. There will be no order as to costs.

8. Application allowed.