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**(2002) 12 JH CK 0014**  
**In the Jharkhand High Court**  
**Case No : CWJC No. 3044 of 1999 (R)**

Jamila Khatoon

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision :** 17-12-2002

**Acts Referred:**

Land Acquisition Act, 1894 — Section 18

**Citation :** (2002) 2 JCR 323

**Hon'ble Judges :** Vikramaditya Prasad, J

**Bench :** Single Bench

**Advocate :** M.K. Sinha, for the Appellant; J.C to G.P. II, for the Respondent

**Final Decision :** Allowed

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## Judgement

Vikramaditya Prasad, J.—This writ has been filed for quashing (Annexure 4) the order rejecting the prayer of the petitioner for referring the matter to the competent Court u/s 18 of the Land Acquisition Act, and also for issuance of a mandamus to the respondents to refer the matter to the Civil Court of competent jurisdiction u/s 18 of the Land Acquisition Act.

2. The short facts of the case are that the petitioner's land bearing Khata No. 99 of Plot No. 747 Area 2.47 acres was acquired vide Land Acquisition Case No. 5 of 1986-87, Annexure 1. The award of collector u/s 12(2) was communicated to the petitioner on 13.3.1989. Thereafter on 29.3.1989 the petitioner filed her objection u/s 18 of the Act requesting the Collector to refer the matter to the Civil Court on the ground that the award and sum is less and it should be at least 2 lacs. The petitioner, however, In that very objection petition also wrote as follows :--

"Your petitioner is however ready to accept the said sum of Rs. 31,307.25 paise under the protest and the reserved his right for the balance amount which may be considered payable by competent Authority."

3. Subsequently, the petitioner again filed her representation through Annexure

3 but by Annexure 4, the prayer of the petitioner for referring the matter to the Civil Court, was rejected on 15.1.1998. The Land Acquisition Officer while rejecting the prayer of the petitioner, has held that the award was made on 3.3.1989 and that was informed to the petitioner on the same date and the petitioner had received the awarded amount on 29.3.1989. This information was also made by service of notice on the advocate of the petitioner on 7.3.1989. Subsequently, the petitioner appeared on the aforesaid date and received awarded amount without any objection which is apparent from page 15 of the note-sheet but as the petitioner has not filed her objection within six weeks, her objection was not fit to be considered, consequently it is rejected.

4. Section 18 of the Land Acquisition Act, 1894 reads as follows :--

"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 amount the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

(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 case within six weeks of the receipt of the notice from the Collector u/s 12, Sub-section (2), or within six months from the date the Collector's award whichever period shall first expire." .

5. u/s 18 of the Land Acquisition Act if the petitioner has received the awarded amount then she is restrained from filing application for referring the matter to the competent Court. Now in this case as per Annexure 1 the award was made on 3.3.1989 and she was directed to appear for receiving the amount of Rs. 31307.25 paise then the limitation for filing objection for referring the matter to the Civil Court u/s 18 of the Act after six weeks will expire on 17.4.1989. The petition, Annexure 2 was filed by the petitioner on 29.3.1989. Thus, this petition is well within the period of limitation of six weeks. In para 5 of Annexure 2 the petitioner says as follows :--"Your petitioner claims that the total compensation payable to her in respect to her properties acquired ought to be more than Rs. 2.00 lakhs In the minimum. Your petitioner is however ready to accept the said sum of Rs. 31,307.25 paise under the protest and the reserved his right for the balance amount which may be considered payable by competent Authority."

6. No counter affidavit has been filed on behalf of the State. The case record of Land Acquisition Case No. 5 of 85-86 was also not produced despite direction by this Court. No doubt In that Annexure-4, it has been stated that the petitioner

had received amount on 29.3.1989 without any objection but it does not clear whether on that date before filing the objection petition that amount has been released. In the entire Annexure-4 this matter has not been clarified. So, in absence of record and counter affidavit, it is clear that the petitioner has filed the objection first kept her right reserved and disclosed her intention to receive award under protest. In that circumstance, when the objection was filed prior to receiving of the awarded amount then it could have been filed under law and as stated earlier the objection petition was well within six weeks, therefore, there was no legal difficulty in referring the matter to Civil Court u/s 18 of the Act.

7. In the result, the impugned order is perverse and consequently it is set aside. The respondents are directed to refer the matter to the competent Court within three weeks from date of production of this order.

8. The writ is allowed at admission stage.