

(1993) 11 P&H CK 0024
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 1973 of 1993

Madan Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 18-11-1993

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1993) 105 PLR 44

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : P.S. Rana, for the Appellant; Ritu Bahri, A.A.G for Respondent Nos. 1 and 2 and Rajesh Mahajan, for the Respondent

Final Decision : Allowed

Judgement

G.C. Garg, J.—Delay in filing the revision petition is sought to be condoned on the ground that no notice of hearing of the application u/s 18 of the Land Acquisition Act was ever issued to the petitioner nor the decision thereon was ever conveyed and that the petitioners immediately on coming to know of the order declining the reference, filed this revision after obtaining certified copy of the order. Reply to the application seeking condonation of delay was filed. It is not disputed that no notice of hearing of the application u/s 18 of the Act was issued to the petitioners and that the same was declined being barred by time. It also could not be disputed that no intimation in respect of order rejecting the application was conveyed to the petitioners. In the circumstances and having regard to the above factual position, it is a fit case where delay in filing the revision petition deserves to be condoned and the same is hereby condoned.

2. Learned counsel for the parties have also been heard on the merits of the revision. Some land of the petitioners was acquired by the respondents for the benefit of the Market Committee, Karnal. The petitioner being not satisfied with the amount of compensation awarded, moved an application u/s 18 of the Act requiring the Collector to refer the matter to learned District Judge for

determination of market value of the acquired land. This application was dismissed by the learned Collector in the absence of notice to the petitioners. Order rejecting the application was also not communicated to the petitioner.

3. Learned counsel for the petitioners vehemently contended that in the absence of notice, the Collector could not decide the application. Even if the application was barred by time, he should have referred the matter to learned District Judge and the question of limitation should have been left open to be decided in the reference. I find merit in the contention of the learned counsel. The application moved by the petitioners seeking reference was dismissed by the learned Collector as barred by time without assigning any reason. No notice of the date of hearing of the said application was even issued to the petitioners. The order passed on the application was not even conveyed to the petitioners. In my view it was incumbent on the Collector at least to give notice to the petitioners before rejecting the application seeking reference regarding determination of market value of the land and in case the Collector was of the view that no notice was necessary, he ought to have referred the matter to the learned District Judge for adjudication leaving it open to him to decide the question of limitation. He himself could not in the absence of notice come to the conclusion that the application was barred by time and consequently file the same. The Court in *Smt. Devinder Kaur v. State of Punjab*,¹ 1988 P.L.J. 324 and *Jit Singh Vs. Land Acquisition, Collector, PWD B and R Branch*, took the same view and directed the learned Collector to make reference u/s 18 of the Act to the learned District Judge. Above being the situation, this revision succeeds. Order of the Collector rejecting the application as bared by time is set aside and a direction is issued to the learned Collector to refer the application moved by the petitioners to learned District Judge for adjudication leaving the question of limitation open.

The revision stands allowed accordingly.