

**(2008) 08 BOM CK 0095**  
**In the Bombay High Court**  
**Case No : F.A. No. 88 of 2004**

Murlidhar Sable and Others

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

**Date of Decision :** 12-08-2008

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17  
Constitution of India, 1950 — Article 226  
Land Acquisition Act, 1894 — Section 11, 12, 12(1), 12(2), 18  
Limitation Act, 1963 — Section 29(2)

**Citation :** (2008) 6 ALLMR 200 : (2008) 6 MhLj 838

**Hon'ble Judges :** S.R. Dongaonkar, J

**Bench :** Single Bench

**Advocate :** M.A. Sable, for the Appellant; T.R. Kankale, AGP, for the Respondent

**Final Decision :** Dismissed

## **Judgement**

S.R. Dongaonkar, J.—The appellants challenge the judgment and order passed by Joint Civil Judge, Senior Division, in Land Acquisition Case No. 110/97, dated 17th July, 2003, by which he dismissed the reference of the appellants u/s 18 of the Land Acquisition Act.

Part of the land of the appellants from P.H. No. 36-A, Tahsil Narkhed, District Nagpur, of village Ambada, Kh. No. 164 and 165/2 was acquired for construction of the road. Special Land Acquisition Officer (SLAO for short) declared his award on 15-9-1995. The compensation accorded by SLAO was accepted by the appellants under protest. According to the appellants, the SLAO did not value the land properly and did not award the compensation as per prevailing market price in that locality. They also felt that the horticulture use of the said land was not considered and therefore, the compensation was granted at very low rate. As such, they preferred an application for Reference u/s 18 of the Land Acquisition Act.

2. The appellants contended that the award was passed by S.L.A.O on

15-9-1995. They applied for its certified copy on 6-2-1996. They had so applied after receiving the knowledge of passing of award. They received certified copy of the same on 12-4-1996. According to them, excluding the time for getting certified copy, whereby they acquired the knowledge of the award, the reference application was within limitation.

The respondent - State of Maharashtra resisted the reference. The respondent denied all the assertions made by the appellants. The fact that the reference was within limitation was denied.

3. The learned Reference Judge framed the following issues.

#### Issues

1. Whether LAO is barred by limitation u/s 18(2)(1) of the Land Acquisition Act?
2. Whether compensation awarded by LAO is grossly inadequate?
3. Whether the applicants are entitled for additional enhanced compensation
4. What order?

The appellants led evidence of Appellant No. 1 Murlidhar and one expert in agricultural land valuation AW-2 Sharad Umale. The State, however, did not adduce any evidence on record.

4. As regards issue of limitation, the learned Reference Judge came to the finding that the reference was not preferred within the period of limitation which is provided u/s 18(2) of the Land Acquisition Act. He found that the claim of the appellants that the knowledge of the said award was acquired only after the receipt of the certified copy of the award was not acceptable. He found that the reference application was not preferred within a period of limitation as provided u/s 18(2) of the Land Acquisition Act, though the appellants had received the notice on 9-1-1996 u/s 12(2) of the Land Acquisition Act. He did not enter into the merits of the reference in view of the above findings. As such, he dismissed the reference application of the appellants, with the findings as below;

#### Findings

1. ...Yes
2. ...Does not arise
3. ...Does not arise.
4. ...See final order

This judgment and order is challenged in this appeal.

5. Shri M.A. Sable, learned Counsel for the appellant, has submitted that appellants could not file an application u/s 18 of the Land Acquisition Act unless they got full knowledge of the contents of the award. Hence, time spent in

obtaining the certified copy has to be excluded, else it would cause serious injustice to the appellants/applicants. He further submitted that the remedy u/s 18 of the L.A Act is a substitute for remedy before the Civil Court and as such, for utilizing that remedy effectively, knowledge of all the contents of the award and the manner of the appreciation of the evidence by SLAO is must and therefore, for calculating the period of limitation of 42 days, the period for getting the certified copy has to be excluded, otherwise this remedy would render meaningless and illusory. It is also contended that the agriculturists in rural areas do not possess any knowledge of law and therefore, unless they get the knowledge of the grounds on which the award is passed by SLAO, they cannot virtually challenge the order, or they cannot give the detailed instructions to their advocates who can prepare the reference application with meticulous contentions. It is further submitted that Section 29(2) of the Limitation Act does not make any reference to the Court and therefore, the provisions of Limitation Act can be certainly made applicable as the concept of special law as made applicable by the reference Court would not be attracted. It is his further submission that the knowledge of an award u/s 12(2) of the L.A. Act was received by the appellant on 19-1-1996. They received the payment of compensation under protest on 24-1-1996. If the period of 42 days (limitation) is counted from 19-1-1996, it would expire on 2-3-1996. The application for certified copy was moved on 6-2-1996.

6. The same was received on 14-4-1996. The total period spent for getting certified copy was 65 days and if this period is considered and excluded, the period of limitation would end on 6th May, 1996, and as the reference is filed on 26-4-1996, the same is within limitation. As such, it is submitted that the view taken by the learned trial Judge is erroneous and unsustainable at law. Further, it is contended that as the reference application has to be filed along with four copies of the award, the time spent for obtaining certified copy has to be excluded. As such, in short, it is contended that the reference application of the applicant was well within the period of limitation and therefore, the learned trial Judge has passed incorrect order by holding that the reference was not within limitation and thereby not considering the reference on merits. It is, therefore, submitted that the judgment and order of the learned trial Judge is liable to be quashed and set aside in this appeal.

7. Learned Counsel for the appellant has relied on various authorities in support of his contentions. It is necessary to briefly note the same at this stage. He has relied on the judgment of the Division Bench of this Court reported in Mangilal Jawanmal and Others Vs. The Special Land Acquisition Officer (I), Thana, , wherein it has been observed thus;

22. ...In fact as we have pointed out earlier, u/s 11 an inquiry into the measurement, the value and the claims is contemplated at the hands of the Collector or the Special Land Acquisition Officer and during the course of the inquiry the Collector or the Special Land Acquisition Officer would either accept

what the claimant has claimed or may reject it on certain grounds and may arrive at compensation on certain other basis, but such basis on which compensation is fixed and the other particulars and the different heads of property must form part of his award and these things in our view would constitute the essential contents of the award without knowledge of which it would be utterly impossible for any claimant to make his application for reference stating the grounds of his objection to the award. If that be the correct position, we are clearly of the view that the phrase "within six weeks of the receipt of the notice" occurring in the first part of proviso (b) of Section 19(2) must be interpreted to mean within six weeks from the receipt of effective notice meaning thereby from the receipt of the knowledge of the essential contents of the award by the claimants including the reasons or the basis on which the quantum of compensation has been fixed as also the other particulars mentioned above. Such construction to our mind would be the most fair and reasonable and in our view the period of six weeks limitation prescribed under the first part of proviso (b) to Section 18(2) would commence from the receipt of such effective notice. Admittedly, in the instant case, the notice u/s 12(2) did not give the essential contents of the award to the petitioners when the notice was served upon them on 4-1-1974 but the effective notice of the essential contents of the award could be said to have been served upon the petitioners only when the copy of the award was made available to them or become ready for delivery to them as applied by them which was on 1-3-1974 and since the application for reference was made within the prescribed period from that date onwards, the same would be within time.

....

30. Having regard to the above discussion, in our view, the learned Joint Judge was clearly in error in taking the view that the reference was not maintainable inasmuch as the application for reference itself was barred by time. For the reasons indicated above, the limitation of six weeks prescribed by the first part of proviso (b) to Section 18(2) would commence from the date when the effective notice was served upon the petitioners which in the instant case would be on 1-3-1974 when the copy of the award was ready for delivery to them and since from that day the application for reference was made within the prescribed period of limitation, the same was well within time.

8. The learned Counsel for the appellants relying on this authority has submitted that the knowledge of the essential contents of the award passed by SLAO can be fixed on the claimants/appellants only when they received certified copy of an award and therefore, the period of limitation as provided u/s 18(2) of the L.A. Act would commence from the date of receipt of the certified copy by the appellants. The learned Counsel has further relied on the decision of Apex Court in Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another, .; wherein in para 6 it has been observed thus-

(6). There is yet another point which leads to the same conclusion. If the award

is treated as an administrative decision taken by the Collector in the matter of the valuation of the property sought to be acquired it is clear that the said decision ultimately affects the rights of the owner of the property and in that sense, like all decisions which affect persons, it is essentially fair and just that the said decision should be communicated to the said party. The knowledge of the party affected by such a decision, either actual or constructive, is an essential element which must be satisfied before the decision can be brought into force. Thus considered the making of the award cannot consist merely in the physical act of writing the award or signing it or even filing it in the office of the Collector; it must involve the communication of the said award to the party concerned either actually or constructively. If the award is pronounced in the presence of the party whose rights are affected by it, it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced, the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. Similarly, if without notice of the date of its pronouncement an award is pronounced and a party is not present, the award can be said to be made when it is communicated to the party later. The knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice, the expression "the date of the award" used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. In our opinion, therefore, it would 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.

9. Therefore, according to the learned Counsel for the appellant, the date of the Collector's award should be construed to mean a date when the claimants really got the knowledge of the said award by getting certified copy.

The decision of the Apex Court in *State of Punjab Vs. Mst. Qaisar Jehan Begum and Another*, wherein it has been held that;

A liberal and mechanical construction of the words "six months from the date of the Collector's award" occurring in the second part of Clause (b) of the proviso would not be appropriate and the knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice, the expression used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. Where the award was never communicated to the party, the question is when did the party know the award either actually or constructively. Knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party u/s 12(2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it

or not. Similarly when a party is present in the Court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act knowledge of the award must mean knowledge of the essential contents of the award.

has also been pressed into service to contend that, when the award is communicated to the claimants with all details, then only; knowledge of an award can be fixed to the appellants and as such in this case, the knowledge to the appellant can be fixed only after receipt of the certified copy.

10. The learned Counsel has further relied on the decision of this Court in Mohanlal Vs. B.G. Deshmukh and Others, , wherein it has been held that the starting point for the period of limitation u/s 18(2) of the L.A. Act should be from the knowledge of the award. In Pir Jamal Dargah Trust Vs. Special Land Acquisition Officer, Metro Centre No. 4 and Another, , wherein it has been held that the time u/s 18(2) can be computed from the date of his knowledge and if the reference application is filed within six months from the date of the award, the reference application would be well within limitation. The learned Counsel for the appellant has also taken me through the observations of this Court in the judgment reported in 1981 Mh.L.J. 49, Dagdulal Gangabisan Kasat and Anr. v. State of Maharashtra, wherein it has been held that time requisite for obtaining copy of award is to be excluded while computing limitation for an application u/s 18(1) of the L.A. Act.

11. The learned Counsel has further relied on the judgment of this Court in Govind Kanu Madhavi (since deceased, through his legal heirs and representatives Kamal Dattu Madhavi, Smt. Nalini Nagesh More and Kum. Jayashree Dattu Madhavi) Vs. The Spl. Land Acquisition Officer, , wherein in para 6 it has been observed thus;

(6). At this stage, the learned A.G.P. made submission that the reference u/s 18 of the Act is time barred by virtue of Section 18(2) of the said Act as the reference was not made within the period of 42 days from the receipt of notice. However, in this connection, it must be noted that this point was not taken by the State while opposing the reference in the trial Court nor any opportunity was given to the claimant to meet the said claim and, therefore, the question of limitation cannot be considered only as a pure question of law but in this case it has to be considered as mixed question of law and facts. This aspect can also be looked into from altogether different angle. Even if it is held that the notice of the award was received by the claimant and reference u/s 18 was filed after the period of six weeks or 42 days, still unless and until claimant receives the copy of the award, it would not be possible for him to determine whether it would be necessary to file reference or not and, therefore, in my view, claimant cannot be non suited on such technical ground especially in absence of any opportunity to him to meet the allegations at the trial stage.

to contend that unless and until the claimants receive the copy of the award, it would not be possible for him to determine whether it would necessary to file reference or not and therefore, claimant cannot be non-suited on such technical ground especially in absence of any opportunity to him to meet the allegations at the trial stage.

12. The judgment in Vitthal Talegave and Others Vs. State of Maharashtra and Others, .; has also been pressed into service, wherein the expression "the date of the award" was construed to mean "the date" when the award is either communicated to the party or is known by him either actually or constructively.

Similarly, he has relied on the judgment of this Court in 2007(2) Mh.L.J. 707, Vitthal Bhaskar Thakur v. Special Land Acquisition Officer and Anr.; wherein it has been held that the period of limitation for making application for reference would be six months from the date of the Collector's award, and when notice u/s 12(2) was not validly served, the limitation for making application for reference will have to be computed from the date of the knowledge of the making of an award.

13. As against this, Shri T.R. Kankale, learned AGP for the State has contended that the reference of the appellant was not within limitation inasmuch as the time for getting the certified copy cannot be excluded in computing the period of limitation in view of the fact that the Land Acquisition Act was "special law" which provides independent period of limitation for taking actions therein. In short, it is his contention that the period spent for obtaining certified copy cannot be excluded; while computing the period of limitation for reference u/s 18(2) of the L.A. Act. It is further his submission that the knowledge of the award has to be attributed to the appellants from the date when they received the notice u/s 12(2) of the L.A. Act, as in the present case, full details as required by the Act itself were provided to the appellants. As such, according to him, the learned trial Judge has rightly held that the reference application of the appellants was barred by limitation as provided u/s 18 of the L.A. Act and therefore, he claimed dismissal of the appeal.

14. He has also relied on the judgments of the Apex Court and this Court for making out this submission. In Mahadeo Bajirao Patil Vs. State of Maharashtra and Others, , the Apex Court has observed in Paras 11 and 12, thus:

(11). It is by now well settled that notice u/s 12(2) of the Act is a clear intimation of making of the award requiring the owner or person interested to receive the compensation awarded u/s 11 of the Act. It is necessary that the notice should contain all the details of the award including the consideration by the Land Acquisition Collector and its manner of determination of the compensation. No particular form is prescribed by the Act or the Rules.

(12). In State of Punjab v. Satinder Bir Singh, this Court held; (SCC p. 332, para 8)

8. The question then is whether the notice u/s 12(2) is a valid notice. From a conjoint reading of Sections 11 and 12, it is clear that notice is only an intimation of making the award requiring the owner or person interested to receive compensation awarded u/s 11. On receipt of the notice, if the person interested receives compensation without protest, obviously no reference need be made. The determination of compensation becomes final and binds the parties. When he receives the compensation under protest as contemplated u/s 31 of the Act, the need to make the application for reference u/s 18(1) would arise. At that juncture it will be open to the person interested either to make an inspection of the award which was conclusive between him and the Collector by operation of Sub-section (1) of Section 12, or seek a certified copy of the award from the Collector and the contents. Thereon he could make necessary objection for the determination inter alia, of compensation for the land. It is not necessary that the notice should contain all the details of the award including his consideration and its manner of determination of the compensation as opined by the learned Judge of the High Court. It is not incumbent that the person interested should immediately make the reference application on his receiving compensation u/s 31. In other words receipt of the amount and making the reference application are not simultaneous. The statutory operation of limitation mentioned by Section 18(2) does not depend on the ministerial act of communication of notice in any particular form when the Act or Rules has not prescribed any form. The limitation begins to operate from the moment the notice u/s 12(2) is received or as envisaged by Section 18(2).

15. It is also pointed out by him that in Paras 14 and 15, the Apex Court has observed thus;

(14). We are here not concerned with the correctness of the decision, but the fact remains that having considered the claim of the appellant for compensation, the Special Land Acquisition Officer rejected the claim. This does not amount to the making of an award, commonly described as "nil award". If the appellant was aggrieved by such a award, it was open to him to seek reference u/s 18 of the Act which the appellant actually did. We, therefore, cannot hold that no award as envisaged by Section 11 of the Act was declared on 29-8-1994, since the claim of the appellant was considered and was totally rejected. There was, therefore, no question of giving any calculation of the manner in which the compensation was computed. Since, the application u/s 18 was not filed within six weeks of the receipt of notice u/s 12(2) of the Act, the High Court did not commit any error in holding that the application was barred by limitation. It was not disputed before us that the Land Acquisition Officer making a reference, or the Court considering a reference u/s 18 of the Act has no power of condonation of delay in making an application under the aforesaid section.

(15). The next ground on which the High Court held the application to be barred by limitation is that in any event the appellant had knowledge of the award being made on 8-12-1994, since he filed a copy of the award as annexure to the writ

petition filed on 9-12-1994 and, therefore, should have filed the application u/s 18 of the Act within six weeks. The submission urged on behalf of the appellant relying upon the decision of this Court in *Raja Harish Chandra Raj Singh v. Dy. Land Acquisition Officer* that in the instant case even if it is assumed that the appellant had knowledge of the award at least on 8-12-1994, he could make an application within six months from the date of such knowledge, would have deserved serious consideration, but for the finding recorded by us earlier that the appellant had notice u/s 12(2) of the Act and, therefore, the period of limitation for filing the application u/s 18 was six weeks from the date of receipt of the notice and not six months from the date of knowledge of the award.

16. And therefore, according to him, in the present case, the knowledge of the award to the appellants can be attributed as soon as the notice u/s 12(2) of L.A. Act was received by them on 19-1-1996.

He further relied on the decision of this Court in 2006(2) All MR 285, *State of Maharashtra v. Ajit Pannalal Sanghavi and Ors.*, wherein it has been held thus;

Section 12(2) of the said Act speaks of notice of the award and not a copy of the award to the interested persons, while the objection u/s 18 could be in relation to measurement of land, the amount of compensation, the persons to whom it is payable and the apportionment of the compensation. In other words, if notice issued u/s 12(2) in relation to the award passed u/s 11 contains information regarding identity of the area of land acquired, the rate of the compensation awarded and the share of the addressee of the notice in the compensation awarded then it could be sufficient compliance of the provisions of Section 12(2) of the said Act which would enable the interested person to file objections, if any, u/s 18 in case he is dissatisfied on account of any of the factors mentioned in the said provision of law. For this reason, he need not have copy of the award itself. Once reference is made, he can even elaborate his grounds of objection before the Reference Court and the Reference Court can allow amendment by resorting to the provisions of Order VI, Rule 17, Civil Procedure Code.

In the instant case, the award, in fact, was ready on 11-4-1985 and a copy thereof was available with the claimants. As the same was not signed because the concerned S.L.O. was transferred, it was required to be signed by the second S.L.O and that is what was done on 17-06-1986 for the purpose of its declaration u/s 11 of the said Act. The above facts thus reveal the knowledge of the contents of the award to the claimants even on the date of the receipt of the notice u/s 12 of the said Act itself. The application filed u/s 18 of the said Act was, therefore, clearly beyond the period of six weeks from the date of service of notice u/s 12.

He has also pressed into service the judgment of the Apex Court in *Shantaram Ganesh Shenoy Vs. Special Land Acquisition Officer*, wherein it has been observed in Paras 12 and 14 thus;

12. In view of what has been held by the Apex Court and this Court, it is obvious that in a case where notice u/s 12(2) of the said Act of 1894 is duly served on

the claimant, the limitation starts running from the date of service of notice. The time required for obtaining certified copy of the Award cannot be excluded while computing stipulated period of limitation of 42 days which is provided under Clause (b) of the proviso to the Sub-section (2) of Section 18 of the said Act of 1894. Therefore, even assuming that the appellant had filed certified copy of the Award on record, the time required for obtaining certified copy cannot be excluded while computing the limitation of 42 days as provided under the statute. Thus, no fault can be found with the finding recorded by the Reference Court when it was held that the application for reference was not filed within the stipulated period of limitation.

13....

17. Thus, the law laid down by the Apex Court is that the reference Court being the tribunal of special jurisdiction, it is the duty of the reference Court to examine whether the reference made to it by the Collector complies with the essential requirements provided u/s 18 of the said Act of 1894. The Apex Court held that only if the conditions stipulated u/s 18 are complied with, the reference Court gets jurisdiction to hear the reference. If this is the position of law, it is the duty of the reference Court to apply its mind to the question whether the application for reference was filed within stipulated period of limitation. The reference Court has jurisdiction to decide whether the reference application was made within limitation. Making an application for reference within the time stipulated by law is a sine qua non for a valid reference. It is not necessary to decide the question whether the State Government can challenge the order of making reference by preferring a revision Application u/s 18(3) of the said Act of 1894. Even assuming that the State Government could have challenged the order passed by the Special Land Acquisition Officer by preferring revision application and even if such revision application was not filed, that will not take away the jurisdiction of the reference Court to perform its duty to examine whether the reference made by the Collector complies with the requirement of the statute. The reference Court gets jurisdiction to decide a reference u/s 18 on merits provided an application for reference is filed within the limitation provided by statute. If the reference is not validly made, the reference Court does not get jurisdiction to decide the reference. In my view, there is no merit in the second contention raised by Shri Patil.

18. In addition, he has referred to the decision of the Division Bench of this Court in Smt. Laxmibai Narayan Patil and another Vs. State of Maharashtra and another, .; wherein it has been held thus;

An Award u/s 11 of the Land Acquisition Act was made by the Special Land Acquisition Officer on 8-8-1989. The landowners were not present or represented before the Special Land Acquisition Officer, when he made the Award. The landowners were thereafter served with notice u/s 12(2) of the Act on 22-8-1989. The landowners applied for certified copy of Award on 12-9-1989 which was received on 19-12-1989. The landowners thereafter applied for

reference u/s 18(1) on 5-1-1990. As the said application was not made within six weeks from receipt of the notice u/s 12(2) of the Act, the same was dismissed by the Special Land Acquisition Officer as barred by limitation. In writ petition under Article 226 of the Constitution of India, challenging the said order, it was contended that as the application for reference had been made within six weeks from the date of receipt of the certified copy of the Award, it was within time.

Held, that notice u/s 12(2) of the Land Acquisition Act is notice of the Award to such of the persons interested as were not present personally or by their representative when the Award was made. Notice of the Award u/s 12(2) means notice of the essential contents of the Award. The Collector had served notice u/s 12(2) on the petitioners on 22-8-1989. By the said notice the petitioners were informed about the area of the land, measurement of the land and amount of compensation. In such case, the limitation for making an application u/s 18 was six weeks from the receipt of notice u/s 12(2) of the Act. Admittedly, the application for reference u/s 18(1) had not been filed within that period. In view of the decision of the Supreme Court in Officer on Special Duty (Land Acquisition) and Another Vs. Shah Manilal Chandulal and Others, , the Limitation Act had no application to proceedings before the Collector., The Special Land Acquisition Officer was justified in rejecting the application for reference.

19. Further he has relied on the judgment of the Full Bench of the Andhra Pradesh High Court reported in Maddela Narsimlu and others Vs. The Special Deputy Collector, Land Acquisition Unit-I, Sriramsagar Project, Nizamabad, , wherein the decision of this Court in Mangilal Jawanmal and Others Vs. The Special Land Acquisition Officer (I), Thana, , Mangilal Jawanmal and Ors. v. The Special Land Acquisition Officer (I), Thana, referred above was distinguished.

20. In short, the submission of the learned AGP for Respondent No. 1 is that the knowledge of the award as required in Raja Harish Chandra's case, referred to above, can be attributed to the appellant after receipt of the notice u/s 12(2) of the L.A. Act, because in view of the judgment of the Apex Court in Mahadeo's case, referred to above, even telegram regarding making of award can be considered as adequate notice for starting of the period of limitation u/s 18(2) of the L.A. Act, wherein; when such reference was not made within the period of six weeks was held to be barred by limitation. Further according to him, the period spent for obtaining certified copy cannot be excluded from computation of period of limitation u/s 18(2) of the L.A. Act and therefore, the reference application filed by the appellant would be barred by limitation.

It would be seen that none of the parties have referred to the merits of the claim of the appellants, inasmuch as if the reference application of the appellant is found to be not barred by limitation provided u/s 18(2) of the L.A. Act, the matter will have to be remanded back to the reference Court for fresh adjudication.

21. In order to appreciate the controversy in the appeal, the dates which are

material need to be noted.

- i) The award passed by S.L.A.O. was of the date 15-9-1995.
- ii) The notice u/s 12(2) of the L.A. Act was sent to the appellants on 3-1-1996.
- iii) The same was received by the appellants on 19-1-1996;
- iv) The application was filed by the appellants for getting certified copy on 6-2-1996.
- v) The certified copy was received by the appellants on 12-4-1996.
- vi) Reference application was filed on 26-4-1996.

At this juncture, it is necessary to refer to the provisions of Section 18(2) of the L.A. Act, which read thus;

Reference to Court.- (1)....

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

22. There are clear authorities of this Court on two important aspects. In Smt. Laxmibai Narayan Patil and another Vs. State of Maharashtra and another, , the Division Bench of this Court has held that the Limitation Act has no application for the proceedings before the Collector for reference. And in 2006(3) All MR 285, State of Maharashtra v. Ajit Pannalal Sanghavi and Ors., it has been held that the time spent for obtaining certified copy of the award cannot be excluded in computing the period of limitation. No doubt, Mangilal Jawanmal and Others Vs. The Special Land Acquisition Officer (I), Thana, , and 1981 Mh.L.J. 49, Dagdulal Gangabisan Kasat and Anr. v. State of Maharashtra; to some extent support the contention of the appellants in this behalf. Still it is not possible to accept this contention in view of the fact that there appears no such provision in the special law of Land Acquisition Act, which provides independent period of limitation other than what is provided in the Limitation Act. Once the provisions of Limitation Act are held to be not applicable to the Land Acquisition Act, the plea of the appellants in this behalf would fail, more so in view of the authorities referred supra.

23. Adverting to the question of determination of the date of fixing the

knowledge of the award to the appellants, it would be seen that the appellants are contending that the knowledge of the details of the award rendered by S.L.A.O. is the date of receiving certified copy by them. In this context, it is to be seen that Section 12(2) of the Land Acquisition Act, reads as under-

12. Award of Collector when to be final.- (1)....

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

As already pointed out above, the period of limitation as required u/s 18(2) of the L.A. Act would be for six weeks starting from the receipt of the notice from the Collector u/s 12 Sub-section (2) of the Act. Therefore, once the notice u/s 12(2) of the L.A. Act is received by the appellant, the period of limitation would start from that date.

24. The question is whether this notice can constitute the notice of the contents of the award in a case in hand. The learned trial Judge has found that the notice u/s 12(2), which is received by the appellants in this case, was containing full details of the award as required by the law. In para 27 of the impugned judgment, the learned trial Judge has observed thus-

27. In the case in my hands, there are three notices on record served on the applicants i.e. Exhs.65, 66 and 74. In all these notices, there are a details in respect of Award viz. firstly about the name of parties, under which section, it is issued, by whom it is issued. In it, the case number, name of the village with Tahsil, specific date of declaration of Award u/s 11 of the Act, land survey number, area of acquisition, and details about compensation awarded for various items, such as Land, trees, Well, Stone Bandhies, Solatium, Component, interest etc., are mentioned. It also mentioned at what time, the applicant should present for receiving the compensation amount mentioned in the said notice. It means, if one peruse such notice, he certainly gets knowledge about the details of compensation amount as well as other details mentioned therein. Therefore, I simply come to the conclusion that the notices issued by LAO in this case i.e. Exhs.64, 65 and 74 are having full details and it indicates that there was certain knowledge to the applicants about the award passed by the LAO on 15-9-95....

25. On perusal of the relevant notice, which is at Exh.74, it would be seen that the appellants were intimated about the date when the S.L.A.O. for Collector had declared the award. It is necessary to bear in mind that when this notice was received by the appellants on 19-1 -1996, the appellants were in the knowledge of the material facts of the award. As such, the appellants were in the knowledge of the award and material aspects of the award. Therefore, the period of limitation as provided u/s 18(2) of six weeks of the Act would start from that date at the latest though not from the date of declaration of the award by S.L.A.O. or the Collector. One cannot lost sight of the law laid down by the Apex Court in Mahadeo Bajirao Patil Vs. State of Maharashtra and Others, , wherein it

has been observed by the Apex Court that, it is not necessary that the notice should contain all the details of the award including the consideration by the Land Acquisition Officer and its manner of determination of the compensation, no particular form is prescribed by the Act or the Rules and even the telegram of intimation that the award has been passed was held to be sufficient notice u/s 12(2) of the L.A. Act for starting the period of limitation u/s 18(2) of the said Act. In my opinion, this decision of the Apex Court, clearly enjoins this Court in the facts of this case to come to the conclusion that the period of limitation would start from and only from 19-1-1996. Admittedly, the reference is billed on 26-4-1996 i.e. much after the period of six weeks from 19-1-1996.

26. I have already pointed out that the period for obtaining certified copy cannot be excluded while computing the period of limitation u/s 18(2) of the Land Acquisition Act for the authorities referred above. The authorities referred by the learned Counsel for appellants cannot help them in view of the above. As such, when such period is not excluded (i.e. for obtaining C.C.), for calculating the period of limitation, as required u/s 18(2) of the L.A. Act, this reference would clearly be barred by limitation. The learned trial Judge has taken the right view on this aspect of the matter and therefore, the conclusion reached by the learned trial Judge in this regard cannot be legally assailed.

Yet, another contention of the learned Counsel for the appellant though feebly urged; is that no notice was received by appellant Nos. 2, 3 and 4 u/s 12(2) of the L.A. Act. and therefore, at least for them this bar by limitation would not come in their way; for their reference u/s 18(1) of the L.A. Act.

27. While appreciating this contention, it is necessary to bear in mind that the appellants have not adduced any individual evidence on record. The appellant No. 1 has admittedly accepted the notice u/s 12(2) of the L.A. Act for all of them. It is not his case that he did not accept the notice on behalf of other appellants. In fact, the appellant No. 1 in his evidence has stated that he was deposing for all the applicants. He did not raise any case that separate notices to appellant Nos. 2 to 4 were warranted, or they should have been noticed of the award u/s 12(2) of the L.A. Act independently and separately. No such grievance is raised by appellant Nos. 2, 3 and 4 in reference Court. Therefore, in my opinion, this contention would also not help to the appellants to get the approval for their contention that their reference was within limitation. The reference application was their joint application. It was contested by appellant No. 1 alone on their behalf. Even in appeal their contest was together. In fact, if the period of six months is counted from the date of award of Collector, the reference application of the appellant would be barred by limitation. The concession claimed by the appellants, as referred above, cannot be accorded for the reasons recorded above. The appeal, therefore, fails and the same is dismissed, with no order as to costs.