

(1995) 11 BOM CK 0048

In the Bombay High Court

Case No : Civil Revision Application No's. 191 and 192 of 1994

Pir Jamal Dargah Trust

APPELLANT

Vs

Special Land Acquisition Officer, Metro Centre No. 4 and
Another

RESPONDENT

Date of Decision : 08-11-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 12(2), 18(2)

Citation : (1996) 2 BomCR 554 : (1996) 98 BOMLR 245 : (1996) 2 MhLj 38

Hon'ble Judges : A.D. Mane, J

Bench : Single Bench

Advocate : S.S. Parkar, for the Appellant; Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

A.D. Mane, J.—On rejection of the petitioner's application for reference u/s 18 of the Land Acquisition Act, 1894 on the ground of delay, these two civil revision applications came to be filed by the claimant.

2. The impugned order is annexed as Exhibit-B and it is dated 24th August, 1993 in the form of intimation to the petitioner that his applications stand rejected as time barred u/s 18(2) (a) and (b) of the Land Acquisition Act (called as the "Act").

3. The question arises whether the impugned order can stand in absence of any material on record to hold that the applications were time barred.

4. Sub-section (2) of section 18 of the Act, inter-alia provides that :

"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 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 in first expire"

It is clear from the intimation received by the petitioner under Exhibit B annexed to the application that application for reference is rejected u/s 18(2) (a) and (b) of the Act meaning thereby that the authority is not sure for what reason the application can be said to be time barred. It is nobody's case that petitioner was present before the Special Land Acquisition Officer at the time when he made his award. Therefore, Clause (a) to proviso to sub-section (2) of section 18 of the Act cannot be applied. In case of Clause (b) to proviso of sub-section (2) of section 18 of the Act, petitioner has clearly stated that after the receipt of the notice u/s 12(2) of the Act, he applied for certified copy of the award clearly indicating of his intention of not accepting the award and that application was made on 11-6-1993. No sooner than he did receive the certified copy of the award on 1-7-93 he filed application on 21-7-1993 u/s 18 of the Act. The petitioner has also made it clear that he received intimation about the passing of the award on 31-5-1993 when he actually received the notice u/s 12(2) of the Act. If the time is computed from the date of his knowledge, it is clear that application was filed within six months from the date of the award as provided in Clause (b) to proviso of sub-section (2) of the section 18 of the Act. Therefore, the reference was well, within time. Authority below has therefore, totally failed to appreciate the provision which empowers the authority to reject the reference on the ground of limitation. In that view of the matter both the Civil Revision Applications succeed. The impugned orders are set aside.

5. Rule is made absolute accordingly.

6. The Special Land Acquisition Officer, Metro Centre No. 4, Panvel is directed to proceed with the application u/s 18 of the Act in accordance with law.