
(2014) 01 BOM CK 0028
In the Bombay High Court
Case No : First Appeal No. 261 of 2001

Western Coalfields Limited	Vs	APPELLANT
Sunita		RESPONDENT

Date of Decision : 15-01-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2014) 01 BOM CK 0028

Hon'ble Judges : S.B. Shukre, J

Bench : Single Bench

Advocate : M. Anilkumar, Advocate for the Appellant; Kirti Satpute and Vishal Anand, Advocate for the Respondent

Final Decision : Dismissed

Judgement

S.B. Shukre, J.—This appeal is directed against the judgment and award passed in Land Acquisition Case No. 41 of 1992 on 06/9/2000 by Joint Civil Judge, Senior Division, Chandrapur. The appellants were the acquiring body for whom the Special Land Acquisition Officer acquired the lands. The Special Land Acquisition Officer decided the amount of compensation payable to the respondents, whose land along with the lands of other cultivators from same village were also acquired. Since the amount of compensation awarded by the Special Land Acquisition Officer was found to be insufficient, reference u/s 18 of the Land Acquisition Act was preferred by respondent No.1. After considering the evidence available on record and hearing the rival sides, learned Civil Judge, Sr. Dn., Chandrapur partly allowed the reference and directed the appellant to pay additional amount @ Rs. 40,000/ - per acre after deducting the amount of compensation already paid together with interest by his judgment and award passed on 06/9/2000. Since the present appellants' contention that the reference was barred by limitation, was rejected and the enhanced amount granted by the Civil Judge, Senior Division was not acceptable to the appellant, present appeal has been preferred.

2. I have heard learned Counsel for the appellant, learned Counsel for respondents No. 1 to 5 and respondent No.6. None for respondents No. 7 and 8. After hearing both the sides, the only point that arises for my consideration is; "Whether the reference u/s 18 of the Land Acquisition Act preferred before Joint Civil Judge, Senior Division was barred by limitation?"

3. Learned Counsel for the appellant has submitted that the reference was required to be preferred within six weeks from the date of acquiring of knowledge about passing of the award by the Land Acquisition Officer and in this case, as could be seen from the grounds taken in the memo of reference, the notice issued u/s 12A of the Land Acquisition Act having been admittedly received on 25/3/1991, the limitation period started to run from that date and that as the reference was filed on 16/9/1991, it was certainly filed beyond the period of limitation.

4. On the other hand, learned Counsel for respondents No. 1 to 5 and respondent No.6 have submitted that it is settled law that if the contents of notice are not sufficient to convey the essential terms of the award, the period of limitation would begin, not from the date of receipt of the notice but from the date of receipt of certified copy of the award. They further submitted that the respondents had applied for issuance of certified copy through one Shamrao Dobde and since Shamrao Dobde, the adjoining land owner whose land was also acquired, did not receive the certified copy of the award, out of abundant precaution, the respondents preferred reference on 16/9/1991. Thus, they submitted that in the instant case, limitation period never really started to run as these respondents could not get any knowledge about the essential terms of the award. In this way, learned Counsel for these respondents submit, the reference was filed well within the limitation.

5. Shri Anilkumar, learned Counsel for the appellant has invited my attention to the judgment rendered by learned Single Judge of this Court in the case of Santosh and Others Vs. Union of India, The Deputy Chief Engineer and The Deputy Collector, to support his contention that the reference was preferred after expiry of the period of limitation.

6. In this case, learned Single Judge has followed the law laid down by the Hon"ble Apex Court in the case of Bhagwan Das and Others Vs. State of UP and Others, interpreting Section 18 of the Land Acquisition Act. After following the law laid down in the said case by the Hon"ble Apex Court, learned Single Judge held that the limitation to file reference will start from the knowledge of the award and knowledge must relate to the essential contents of the award. Now, keeping in mind this principle that we have to see; if reference was within limitation or not.

7. In the instant matter, respondents No. 1 to 6 had contended that the notice that was received by them was not sufficient to convey to them essential terms or contents of the award and that was the reason why they chose to file

application for grant of certified copy of the award. They did not by themselves file the application, but relied upon one Shamrao, who was also similarly affected person, to obtain the certified copy not only for himself but also for these respondents. The respondents have stated that Shamrao was not issued the certified copy of the award and ultimately, after waiting for a reasonable period of time, these respondents preferred the reference by way of abundant precaution. So, here, the essence of argument of these respondents is that the period of limitation never began to run as they could not obtain any knowledge of the essential terms of the award.

8. Learned Counsel for the appellant has invited my attention to the grounds taken in the reference and submitted that from these grounds, it can be reasonably said that these respondents do possess sufficient knowledge about the essential contents of the award. The grounds taken in the reference preferred before the Court below do indicate that they could not have been raised unless knowledge about the essential contents of the award was obtained. But, it is not necessary that the knowledge of the contents of the award should be obtained only after going through the certified copy of the award as it could be done by relying upon the references preferred by other similarly affected persons. In this case, Shamrao was one of the affected persons and he had also preferred the reference. Therefore, only because detailed grounds have been taken in the reference, it cannot be said that their source was a certified copy obtained by respondents No. 1 to 6. In fact, the trial Court had considered this aspect of the case as seen from its observations made in paragraph -9 of the impugned judgment and award and had accepted the contention that since the certified copy of the award had not been received even after waiting for reasonable period of time, the reference came to be filed on 16/9/1991, as a reasonable explanation in the matter, though the contention that respondents No. 1 to 6 had applied for issuance of certified copy through Shamrao was denied specifically by the appellant.

9. In view of the above, the reasons recorded by the reference Court in paragraph -9 of the impugned judgment and award appear to be not unjustified or erroneous. Unless these reasons are shown to be inconsistent with the pleadings and evidence on record or seen to be perverse, I do not think any interference with findings recorded on the basis of these reasons could be made by this Court. These facts show that reference was well within limitation, and in reality, the limitation never began to run, as these respondents did not receive the certified copy of the award to know its contents.

10. In the circumstances, I find that respondents No. 1 to 6 have sufficiently explained as to how the reference preferred by them was within limitation and no interference with the finding recorded by the trial Court accepting this explanation is warranted. I, therefore, find that the reference was filed well within the limitation. The point is answered accordingly. There is no substance in the appeal and it deserves to be dismissed.

The appeal stands dismissed with costs.

Respondents No. 1 to 6 are permitted to withdraw the amount deposited in the Court in satisfaction of the decretal amount.