

Popat Bahiru Govardhane Etc vs Spl.Land Acquisition Officer And Anr on 22 August, 2013

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Bench: S.A. Bobde, B.S. Chauhan

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOs. 6976-6980 of 2013

Popat Bahiru Govardhane Etc.
...Appellants

Versus

Special Land Acquisition Officer & Anr.
...Respondents

J U D G M E N T

Dr. B. S. CHAUHAN, J.

1. These appeals have been preferred against the judgment and order dated 25.1.2012 passed by the High Court of Judicature at Bombay in Writ Petition Nos. 2140-44 of 2009, wherein the High Court has upheld the judgment of the Land Acquisition Collector rejecting the application under Section 28A of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') on the ground of limitation.

2. Facts and circumstances giving rise to these appeals are that:

A. The land of the appellants stood notified under Sections 4 and 6 of the Act in 1994-95. Award in respect of the said land was also made on 14.12.1995.

B. Appellants did not file applications under Section 18 of the Act rather some other “interested persons” whose land was also covered by the same notification under Section 4 of the Act filed references and one such reference, i.e. L.A.R. No. 314 of 1999 was decided on

3.4.2006.

C. For the purpose of filing application under Section 28A of the Act, counsel for the appellants applied for a certified copy of the Court award on 17.5.2006, and though the copy of the said award was ready for delivery on 29.5.2006, it was obtained by learned counsel for the appellants only on 3.6.2006. Application for re-determination of the amount of compensation was filed on 18.7.2006 by the appellants, on the basis of the said Court’s award.

D. The Special Land Acquisition Collector vide order dated 22.9.2008, rejected the said application on the ground that the same was filed with a delay of 4 days.

E. Aggrieved, the appellants challenged the said order before the High Court. The same stood dismissed vide impugned judgment and order dated 25.1.2012.

Hence, these appeals.

3. Shri Gaurav Agarwal, learned counsel appearing on behalf of the appellants has submitted that Section 28-A of the Act was inserted by amendment in 1987 and being a beneficial legislation it should be interpreted liberally and period of limitation should be considered and determined on all equitable grounds. It is well-neigh possible for any person to file an appeal without having knowledge of the order/award and therefore, the limitation should be counted from the date of acquisition of knowledge of the Court award. More so, the delay was only of two days and certainly not of four days. In order to fortify his case Shri Gaurav Agarwal has placed reliance upon the judgments of this Court in *Bhagwan Das & Ors. v. State of U.P. & Ors.*, AIR 2010 SC 1532; and *Premji Nathu v. State of Gujarat & Anr.*, AIR 2012 SC 1624.

4. Ms. Madhavi Divan, learned counsel appearing on behalf of the respondents, has opposed the appeal contending that personal inconvenience or hardship of an individual cannot be a consideration for interpreting statutory provisions in case the language of the statute is plain and unambiguous. It is to be given only strict literal interpretation. In the instant case, there is no ambiguity so far as the statutory provisions are concerned. Therefore, limitation is to be taken as prescribed under the statute. In support of her case Ms. Madhavi Divan has placed reliance upon the judgments of this Court in *Tota Ram v. State of U.P. & Ors.*, (1997) 6 SCC 280; *Union of India & Ors. etc. v. Mangatu Ram etc.*, AIR 1997 SC 2704; *State of A.P. & Anr. v. Marri Venkaiah & Ors.*, AIR 2003 SC 2949; *Des Raj (deceased by L.Rs.) & Anr. v. Union of India & Anr.*, AIR 2004 SC 5003; and *State of Orissa & Ors. v. Chitrasen Bhoi*, (2009) 17 SCC 74.

5. We have considered the rival submissions made by learned counsel for the parties and perused the records.

The sole question for the consideration of the court is whether limitation for filing the application for re-determination of the compensation under Section 28A of the Act would commence from the date of the award or from the date of knowledge of the court's award on the basis of which such application is being filed.

6. Though, there is nothing on record to substantiate the appellants' claim that they could acquire the knowledge of the Court's award only on 17.7.2006 and immediately took steps to file application for re-determination under Section 28A of the Act.

7. The issue involved herein is no more res-integra. The appellants' case before the High Court as well as before us has been that the limitation would commence from the date of acquisition of knowledge and not from the date of award. Though, Shri Gaurav Agarwal, learned counsel for the appellants, has fairly conceded that there is no occasion for this Court to consider the application of the provisions of the Limitation Act, 1963 (hereinafter called the 'Act 1963') inasmuch as the provisions of Section 5 of the said Act.

8. Section 28A of the Act reads as under:

“28-A. Redetermination of the amount of compensation on the basis of the award of the court.—(1) Where in an award under this Part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under Section 4 sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the court require that the amount of compensation payable to them may be redetermined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.” (Emphasis added)

9. In *Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer & Anr.*, AIR 1961 SC 1500, this Court dealt with the issue of limitation while dealing with an application under Section 18 of the Act, and it was observed therein that unless a party had knowledge of the order, the question of approaching the appropriate forum challenging the order, does not arise. Therefore, it is the date of the knowledge from which the limitation would start. The Court observed :

“.....The knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fairplay and natural justice the expression.....In our opinion, therefore, it would be unreasonable.....where the rights of a person are affected by any order and limitation is prescribed for the enforcement of the remedy

by the person aggrieved against the said order by reference to the making of the said order, the making of the order must mean either actual or constructive communication of the said order to the party concerned...”

10. This Court in *Union of India & Ors. v. Mangatu Ram & Ors.* (supra); and *Tota Ram v. State of U.P. & Ors.* (supra), dealt with the issue involved herein and held that as the Land Acquisition Collector is not a court and acts as a quasi judicial authority while making the award, the provisions of the Act 1963 would not apply and, therefore, the application under Section 28A of the Act, has to be filed within the period of limitation as prescribed under Section 28A of the Act. The said provisions require that an application for re-determination is to be filed within 3 months from the date of the award of the court. The proviso further provides that the period of limitation is to be calculated excluding the date on which the award is made and the time requisite for obtaining the copy of the award.

11. In *State of A.P. & Anr. v. Marri Venkaiah & Ors.* (Supra), this Court reconsidered the aforesaid judgments including the judgment in *Raja Harish Chandra Raj Singh* (supra) and held that the statute provides limitation of 3 months from the date of award by the court excluding the time required for obtaining the copy from the date of award. It has no relevance so far as the date of acquisition of knowledge by the applicant is concerned. In view of the express language of the statute, the question of knowledge did not arise and, therefore, the plea of the applicants that limitation of 3 months would begin from the date of knowledge, was clearly unsustainable and could not be accepted. The Court also rejected the contention of the applicants that a beneficial legislation should be given a liberal interpretation observing that whosoever wants to take advantage of the beneficial legislation has to be vigilant and has to take appropriate action within time limit prescribed under the statute. Such an applicant must at least be vigilant in making efforts to find out whether the other land owners have filed any reference application and if so, what is the result thereof. If that is not done then the law cannot help him. The ratio of the judgment in *Raja Harish Chandra Raj Singh* (supra) was held to be non-applicable in case of Section 28- A of the Act. The Court observed:

“.....In that case, the Court interpreted the proviso to Section 18 of the Act and held that clause (a) of the proviso was not applicable in the said case because the person making the application was not present or was not represented before the Collector at the time when he made his award. The Court also held that notice from the Collector under Section 12(2) was also not issued, therefore, that part of clause (b) of the proviso would not be applicable. The Court, therefore, referred to the second part of the proviso which provides that such application can be made within six months from the date of the Collector’s award. In the context of the scheme of Section 18 of the Act, the Court held that the award by the Land Acquisition Officer is an offer of market price by the State for purchase of the property. Hence, for the said offer, knowledge, actual or constructive, of the party affected by the award was an essential requirement of fair play and natural justice.

Therefore, the second part of the proviso must mean the date when either the award was communicated to the party or was known by him either actually or constructively.

The aforesaid reasoning would not be applicable for interpretation of Section 28-A because there is no question of issuing notice to such an applicant as he is not a party to the reference proceeding before the court. The award passed by the court cannot be termed as an offer for market price for purchase of the land. There is no duty cast upon the court to issue notice to the landowners who have not initiated proceedings for enhancement of compensation by filing reference applications; maybe, that their lands are acquired by a common notification issued under Section 4 of the Act. As against this, under Section 18 it is the duty of the Collector to issue notice either under Section 12(2) of the Act at the time of passing of the award or in any case the date to be pronounced before passing of the award and if this is not done then the period prescribed for filing application under Section 18 is six months from the date of the Collector's award." (Emphasis added) A similar view has been reiterated by this Court in Des Raj (supra) and Chitrasen Bhoi (supra).

12. In view of above, there is no occasion for us to consider the judgments cited at the bar on behalf of the appellants in support of its case. More so, the said judgments have been delivered by this Court while dealing with the applications under Section 18 of the Act. If there are directly applicable precedents on the issue, the same have to be followed rather than to search for a new interpretation unless it is established that the earlier judgments require reconsideration. The suggestion of reconsideration has specifically been rejected by this Court in Marri Venkaiah (supra).

13. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." (See : The Martin Burn Ltd. v. The Corporation of Calcutta, AIR 1966 SC 529; and Rohitas Kumar & Ors. v. Om Prakash Sharma & Ors., AIR 2013 SC 30) In view of the above, we are of the candid view that none of the submissions advanced on behalf of the appellants is tenable.

14. As the matters are squarely covered by the above referred to judgments, these appeals are devoid of any merit. The cases do not warrant any interference. The appeals are, accordingly, dismissed.

.....J.
B. S. CHAUHAN)

(DR.

.....J.
(S. A. BOBDE)

Popat Bahiru Govardhane Etc vs Spl.Land Acquisition Officer And Anr on 22 August, 2013

NEW DELHI;

August 22, 2013