

MANHARLAL SHIVLAL PANCHAL & OTHERS

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v.

THE DEPUTY COLLECTOR & SPECIAL LAND ACQUISITION
OFFICER & OTHERS

(Civil Appeal No. 9004 of 2022)

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DECEMBER 12, 2022

[M. R. SHAH AND C. T. RAVIKUMAR, JJ.]

Land Acquisition Act, 1894: s. 18(2) – Reference to court – Acquisition proceedings – Challenge to, by land owners which ended on the dismissal of the special leave petition in 2013 – Thereafter pursuant to the liberty reserved by the High Court, while dismissing the writ petition, within six months from the date of dismissal of the special leave petition, the landowners filed reference application u/s. 18 – Dismissed by the reference court as also the High Court on the ground of limitation – On appeal, held: On a fair reading of the judgment passed by the High Court, the observations made that it is too late to make the grievance with respect to the inadequacy of the compensation, those observations are to be read while considering the prayer of the appellants challenging the acquisition proceedings – It appears that the acquisition was also challenged on the ground that the amount awarded is inadequate – Thus, the order passed by the High Court as well as the reference court dismissing the writ petition/reference u/s. 18 as barred by limitation is quashed and set aside – Matter remitted to the reference court to decide the reference on merits.

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Allowing the appeal, the Court

HELD: 1.1 The reference under Section 18 of the Land Acquisition Act, 1894 has been dismissed as barred by limitation having been filed beyond the period of six months, specified in Section 18(2) of the Act, 1894. The same has been confirmed by the High Court. However, it is required to be noted that the respective appellants – original landowners, as such, challenged the acquisition proceedings as well as the award under Section 12(2) of the Act, 1894, which ended in dismissal of the special leave petition by this Court *vide* order dated 11.4.2013. The

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- A reference applications were filed on 1.7.2013. Though in the writ petition, the award under Section 12(2) of the Act was challenged on the ground of inadequacy of the amount of compensation and though the Division Bench of the High Court dismissed the said writ petition, however thereafter reserved liberty in favour of the appellants-original landowners to pursue such remedy as may
- B be available to them for enhancement of compensation or any other relief to which they may be legally entitled. In view of that liberty, the appellants-original landowners thereafter and after dismissal of the special leave petition by this Court filed reference. Therefore, in view of the liberty reserved by the High
- C Court in favour of the appellants to pursue such remedy as may be available to them for enhancement of compensation, the reference application could not have been dismissed as barred by limitation under Section 18(2) of the Act, 1894. Within a period of six months from the date of dismissal of the special leave
- D petition, the reference was filed. In the special leave petition, which was dismissed by this Court on 11.4.2013, the original landowners whose valuable lands had been acquired challenged the acquisition proceedings. [Para 7][348-E-H; 349-A-B]

- 1.2 As such, on a fair reading of the entire judgment and order passed by the High Court, the observations made that it is
- E too late to make the grievance with respect to the inadequacy of the compensation, those observations are to be read while considering the prayer of the appellants challenging the acquisition proceedings. It appears that the acquisition was also challenged on the ground that the amount awarded is inadequate.
- F Therefore, the High Court ought to have interfered with the decision of the reference Court dismissing the reference on the ground of limitation and ought to have remitted the matter to the reference Court to decide the reference on merits. The impugned
- G judgment and order passed by the High Court as well as the order passed by the reference court dismissing the writ petition/ reference under Section 18 of the Act, 1894 is quashed and set aside. The matter is remitted to the reference court to decide the reference on merits. [Para 8][349-C-E]

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MANHARLAL SHIVLAL PANCHAL v. THE DEPUTY COLLECTOR & SLAO 345

Officer on Special Duty (Land Acquisition) & Another v. Shah Manilal Chandulal & Others (1996) 9 SCC 414 : [1996] 2 SCR 366; Mahadeo Bajirao Patil v. State of Maharashtra & Others (2005) 7 SCC 440 : [2005] 2 Suppl. SCR 1182 – distinguished. A

Case Law Reference B

[1996] 2 SCR 366 distinguished Para 9

[2005] 2 Suppl. SCR 1182 distinguished Para 9

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 9004 of 2022. C

From the Judgment and Order dated 10.03.2022 of the High Court of Gujarat at Ahmedabad in Regular First Appeal No. 492 of 2022.

Saju Jakob, Aarush Gangal, Raj Avatar Singh, Ms. Liza Arora, Himanshu Shekhar, Ms. Arunima Sinh Jadaun, Advs. for the Appellants. D

Shyam Divan, Sr. Adv., K. R. Sasiprabhu, Raghav Shankar, Rishit Badiani, Vishnu Sharma A. S., Udayaditya Baneyee, Prakhar Agarwal, Ms. Deepanwita Priyanka, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J. E

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 10.03.2022 passed by the High Court of Gujarat at Ahmedabad in Regular First Appeal No. 492/2022, by which the High Court has dismissed the said appeal preferred by the appellants herein and has confirmed the order dated 20.10.2021 passed by the Reference Court, rejecting the reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act 1894’) as barred by limitation, the original claimants have preferred the present appeal. F

2. The facts leading to the present appeal in nutshell are as under:

That a notification under Section 4 of the Act 1894 came to be issued for acquiring the lands in question for the construction of Gas Compressor Station and necessary facilities under the Reliance Gas Transportation, Surat on 30.07.2008. Declaration under Section 6 of the Act 1894 was issued on 1.6.2009. The Land Acquisition Officer/Collector declared the award under Section 11 of the Act, 1894 awarding H

- A compensation @ Rs. 69/- per square meter, *vide* award dated 6.4.2011. Notice under Section 12(2) of the Act, 1894 with a copy of the award was issued to the landowners/appellants on 25.04.2011. The appellants filed Special Civil Application No. 1428/2012 before the High Court challenging notifications under Sections 4 & 6 of the Act, 1894 as well as award dated 6.4.2011. The Division Bench of the High Court *vide* judgment and order dated 7.8.2012 dismissed the said writ petition. However, while dismissing the writ petition, the Division Bench reserved liberty with the appellants to pursue such remedy as may be available to them for enhancement of the compensation or any other relief to which they may be legally entitled.
- C 2.1 Feeling aggrieved and dissatisfied with the judgment and order dated 7.8.2012 passed by the High Court dismissing the writ petition, the appellants approached this Court by way of Special Leave Petition (Civil) No. CC 7382/2013. This Court *vide* order dated 11.04.2013 dismissed the special leave petition on the ground of delay as well as on merits.
- D That thereafter considering the liberty reserved in favour of the appellants reserved by the High Court while dismissing writ petition No. 1428/2012, the appellants filed reference under Section 18 of the Act, 1894. The Reference Court dismissed the reference as barred by limitation, having been filed beyond the period specified in Section 18(2) of the Act, 1894. The appellants preferred First Appeal No. 492/2022 before the High Court. By the impugned judgment and order, the High Court has dismissed the said first appeal by observing that the Reference Court has rightly dismissed the reference as barred by limitation. The impugned judgment and order passed by the High Court is the subject matter of the present appeal.
- F 3. Learned counsel appearing on behalf of the appellants has vehemently submitted that in the facts and circumstances of the case and more particularly when the appellants challenged the acquisition proceedings which ended in 2013 when this Court dismissed the special leave petition and thereafter within a period of six months from the date of dismissal of the special leave petition, the appellants filed reference under Section 18 of the Act, 1894, the Reference Court ought to have entertained the same and ought to have considered the reference on merits.
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- H 3.1 It is submitted that as such while dismissing Writ Petition No. 1428/2012, the Division Bench of the High Court specifically reserved

liberty in favour of the appellants to pursue such remedy as may be available to them for enhancement of compensation and thereafter when the appellants filed reference for enhancement of the compensation, the same could not have been dismissed on the ground of limitation. A

3.2 It is submitted that therefore in the peculiar facts and circumstances of the case, narrated hereinabove, the time taken by the appellants in pursuing the writ petition before the High Court and thereafter before this Court challenging the acquisition proceedings is required to be excluded. B

3.3 It is submitted that the valuable lands of the appellants have been acquired compulsorily under the provisions of the Act, 1894 and the Land Acquisition Officer awarded compensation @ Rs. 69/- per square meter only. It is submitted that the lands acquired have been situated in Surat and were very valuable lands. It is submitted that the landowners are entitled to just compensation for the acquired lands. C

3.4 Making above submissions, it is prayed to allow the present appeal. D

4. The present appeal is vehemently opposed by Shri Shyam Divan, learned Senior Advocate appearing on behalf of respondent No.3.

4.1 Shri Shyam Divan, learned senior counsel appearing on behalf of respondent No. 3 has vehemently submitted that the time limit to file reference under Section 18 of the Act, 1894 for enhancement of the compensation would be six months from the date of receipt of the award under Section 12(2) of the Act, 1894. It is submitted that in the present case the appellants were served notice under Section 12(2) of the Act with a copy of the award on 25.4.2011. It is submitted that therefore the period of six months for making reference expired on 6.10.2011. It is submitted that therefore the Reference Court rightly dismissed the reference as barred by limitation. E F

4.2 It is further submitted by Shri Shyam Divan, learned senior counsel appearing on behalf of respondent No.3 that even otherwise while preferring Special Civil Application No. 1428/2012, the appellants did challenge the award also contending *inter alia* that the amount of compensation awarded is on a lower side. It is submitted that while dismissing the writ petition, the Division Bench specifically observed that the objections raised by the appellants before making of the award were mainly related to the amount of compensation and they are not G H

- A stated to have applied for reference under Section 18 of the Act, leading to the inference that either they were satisfied with the award of compensation or have missed the time limit for applying for reference under Section 18 of the Act, 1894. It is submitted that the Division Bench has further observed that therefore the petition and the prayers made therein are found to be an afterthought and not a bona fide grievance about any injustice. It is submitted that therefore also no interference of this Court is called for.

- 4.3 Making above submissions and relying upon the decisions of this Court in the case of *Officer on Special Duty (Land Acquisition) & Another v. Shah Manilal Chandulal & Others, (1996) 9 SCC 414* and *Mahadeo Bajirao Patil v. State of Maharashtra & Others, (2005) 7 SCC 440*, it is prayed to dismiss the present appeal.

5. Ms. Deepanwita Priyanka, learned counsel appearing on behalf of the state has supported the impugned judgment and order passed by the High Court.

6. Heard.

7. The reference under Section 18 of the Act, 1894 has been dismissed as barred by limitation having been filed beyond the period of six months, specified in Section 18(2) of the Act, 1894. The same has been confirmed by the High Court. However, it is required to be noted that the respective appellants – original landowners, as such, challenged the acquisition proceedings as well as the award under Section 12(2) of the Act, 1894, which ended in dismissal of the special leave petition by this Court *vide* order dated 11.4.2013. The reference applications were filed on 1.7.2013. At this stage, it is required to be noted that though in the writ petition being SCA No. 1428/2012, the award under Section 12(2) of the Act was challenged on the ground of inadequacy of the amount of compensation and though the Division Bench of the High Court dismissed the said writ petition, however thereafter reserved liberty in favour of the appellants – original landowners to pursue such remedy as may be available to them for enhancement of compensation or any other relief to which they may be legally entitled. In view of that liberty, the appellants – original landowners thereafter and after dismissal of the special leave petition by this Court filed reference. Therefore, in view of the liberty reserved by the High Court in favour of the appellants to pursue such remedy as may be available to them for enhancement of compensation, the reference application could not have been dismissed

as barred by limitation under Section 18(2) of the Act, 1894. Within a period of six months from the date of dismissal of the special leave petition, the reference was filed. In the special leave petition, which was dismissed by this Court on 11.4.2013, the original landowners whose valuable lands had been acquired challenged the acquisition proceedings. At this stage, it is required to be noted that though in the writ petition before the High Court (in the earlier round of litigation) they challenged the award under Section 12(2) of the Act and the High Court observed that it is too late to make any grievance, still the High Court while dismissing the writ petition reserved liberty in favour of the appellants to initiate appropriate proceedings for enhancement of the compensation.

8. As such, on a fair reading of the entire judgment and order passed by the High Court, the observations made that it is too late to make the grievance with respect to the inadequacy of the compensation, those observations are to be read while considering the prayer of the appellants challenging the acquisition proceedings. It appears that the acquisition was also challenged on the ground that the amount awarded is inadequate. To that, the observations were made by the High Court that it is too late to raise such a dispute. Therefore, the High Court ought to have interfered with the decision of the reference Court dismissing the reference on the ground of limitation and ought to have remitted the matter to the reference Court to decide the reference on merits.

9. Now so far as the reliance placed upon the decisions of this Court in the cases of *Shah Manilal Chandulal & Others (supra)* and *Mahadeo Bajirao Patil (supra)* are concerned, there cannot be any dispute on the proposition of law laid down by this Court that the limitation for making reference under Section 18 of the Act, 1894 cannot be extended and that Section 5 of the Limitation Act shall not be applicable. However, in the present case, it is not the case of condoning the delay in exercise of powers under Section 5 of the Limitation Act. As observed hereinabove, in the present case, the appellants challenged the acquisition proceedings which ended on the dismissal of the special leave petition by this Court *vide* order dated 11.4.2013 and thereafter pursuant to the liberty reserved by the High Court, reserved while dismissing Writ Petition No. 1428/2012, within a period of six months from the date of dismissal of the special leave petition, i.e., on 1.7.2013, the original landowners filed reference application under Section 18 of the Act, 1894. In the aforesaid two decisions before this Court, there were no such facts.

- A Therefore, on facts, the aforesaid two decisions shall not be applicable to the facts of the case on hand.

10. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order passed by the High Court as well as the order passed by the reference court dismissing the writ petition/reference under Section 18 of the Act, 1894 as barred by limitation are hereby quashed and set aside. The matter is remitted to the reference court to decide the reference on merits. We direct the reference court to finally decide and dispose of the reference within a period of nine months from the date of receipt of the present order.
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11. The present appeal is accordingly allowed. However, there shall be no order as to costs.

Nidhi Jain

Appeal allowed.