

CASE DETAILS

SHRI NASHIK PANCHAVATI PANJARPOL TRUST AND ORS.

v.

THE CHAIRMAN AND ANR.

(Civil Appeal No. 2857 of 2011)

AUGUST 22, 2023

[BELA M. TRIVEDI AND DIPANKAR DATTA, JJ.]

HEADNOTES

Issue for consideration: Award was passed by the Reference Court determining the amount of additional compensation to be paid to the appellant-trust. High Court whether justified in setting aside the award and remanding the matter to decide as to whether the Reference made was within the limitation as per s.18, Land Acquisition Act, 1894 and decide the Reference afresh.

Land Acquisition Act, 1894—s.18—Application made by the appellant-trust seeking reference, if was beyond the period of limitation prescribed u/s. 18 or not in consonance with the consent terms arrived at between the parties:

Held: In view of the proviso to s.18, every application to the Collector seeking reference u/s.18 is required to be made within the time limit prescribed in the proviso thereto – However, in the instant case, the parties having entered into the consent terms on 20.10.1997 after the award u/s.11 was made on 12.01.1996, and the respondent having specifically agreed to pay the compensation awarded u/s.11 and take over the vacant and peaceful possession of the lands in question from the appellant as also having agreed to make reference to the District Court for the determination of market value of the said lands as on 17.12.1994, it did not lie in the mouth of the respondent- Committee to say that the application made by the appellant-trust seeking reference to the District Court was beyond the period of limitation prescribed u/s.18 or was not in consonance with the consent

terms arrived at between the parties – Since the consent terms as well as the directions contained in the order of High Court were silent as to within what period the appellant should make application to the respondent-Collector seeking Reference u/s.18, the respondent-Committee taking undue advantage of such ambiguity in the consent terms, raised the issue of limitation before the Reference Court – Reference Court rightly held that the Reference was filed with the Collector within the period of limitation as per the order passed by the High Court – High Court erred in interfering with the said well-reasoned findings and in setting aside the entire award and remanding the matter back to the Reference Court for deciding it afresh – Impugned judgments passed by the High Court *ex facie* erroneous, set aside.[Paras 7 and 9]

Interpretation of Statutes – Doctrine of Harmonious Construction:

Held: As per the rules of doctrine of harmonious construction, the document has to be read as a whole and in its totality – If there is any ambiguity either patent or latent, in any of the clauses of the document, the Courts should interpret such clause in such manner which is consistent with the other clauses and with the purpose and intent of the parties executing it.[Para 8]

<p>OTHER CASE DETAILS INCLUDING IMPUGNED ORDER AND APPEARANCES</p>

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2857 of 2011

From the Judgment and Order dated 23.09.2009 of the High Court of Bombay in FA No. 1447 of 2006.

With

Civil Appeal No. 2858 of 2011.

Appearances:

B. H. Marlapalle, Sr. Adv., Anil Ahuja, Ajit Pravin Wagh, Avinish Saurabh, Saurabh Kumar, Preshit Vilas Surshe, Advs. for the Appellants.

Parag P. Tripathi, Sr. Adv., M. Y. Deshmukh, Ms. Manjeet Kirpal, Ms. Adviteeya Sharma, Ms. Mishika Bajpai, Sachin Patil, Ms. Yugandhara Pawar Jha, Siddharth Dharmadhikari, Aaditya Aniruddha Pande, Bharat Bagla, Sourav Singh, Aditya Krishna, Advs. for the Respondents.

JUDGMENT / ORDER OF THE SUPREME COURT

JUDGMENT

BELA M. TRIVEDI, J.

1. The Respondent no. 1- Market Committee had preferred two First Appeals being Nos. 1447 of 2006 and 1490 of 2006 before the High Court of Judicature at Bombay, challenging the award dated 07.03.2006 passed by the II Adhoc Additional District Judge, Nashik (hereinafter referred to as ‘the Reference Court’) in Land Reference No. 525 of 1997. The High Court vide the impugned judgment and order dated 23.09.2009 allowed the First Appeal No. 1447 of 2006 and set aside the award dated 07.03.2006 passed by the Reference Court, and remanded the matter to the Reference Court to decide the question as to whether the Reference made to the Reference Court was within the limitation as per Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act’) and decide the Reference afresh. The High Court vide the separate order of the even date, disposed of the First Appeal No. 1490 of 2006 observing that in view of the order passed in First Appeal No. 1447 of 2006, the appeal had become infructuous. The appellant- trust has preferred the instant appeals being aggrieved by the judgments and orders passed in First Appeal Nos. 1447 of 2006 and 1490 of 2006 by the High Court.

2. Though the case has a chequered history, the bare facts necessary for the purpose of deciding the present appeals may be summarised as under:

- (i) The lands bearing Survey Nos. 74, 75, 76 and 29 situated at Nashik, Makhmalabad belonging to the appellant- trust were sought to be acquired by the respondent no. 2 for the respondent no. 1—Agricultural Produce Market Committee under Section 6 of the Land Acquisition Act read with Section 126 of the Maharashtra Regional and Town Planning Act, 1966 vide the Notification dated 17.06.1993.

- (ii) In the said acquisition proceedings, an award was declared under Section 11 of the Act on 12.01.1996. The appellant- trust filed the Writ Petition being No. 607 of 1996 challenging the said proceedings on the ground that the award declared was beyond the statutory period of limitation. Initially the High Court granted an ad-interim injunction in favour of the appellant (the petitioner in the said petition) on 06.02.1996, against which the respondent had preferred a special leave petition before this Court. However, the SLP came to be dismissed by this Court.
- (iii) Since by virtue of the said interim order passed in the said writ petition, the possession of the lands in question continued with the appellant- trust, and though an award was declared under Section 11 of the Act, the amount awarded remained with respondent no. 2, considering the hardship caused to both the parties, the appellant (the petitioner in the said petition) and the respondent no. 1- Agricultural Produce Market Committee (the respondent no. 4 in the said writ petition) arrived at a Settlement on 20.10.1997 and requested the High Court to dispose of the said writ petition in terms of the consent terms arrived at between the parties.
- (iv) The High Court disposed of the said Writ Petition No. 607 of 1996 by passing the following order on 20th October, 1997: -

“By consent of Parties Petition taken up for final hearing on board today. The consent terms between the petitioner and 4th Respondent taken on record.

Perused the Consent Terms. The same are just, fair, and equitable and hence are accepted.

In view of the above, this shall be an order in terms of Consent Terms and it is hereby directed as under:

- (a) It is directed that the relevant date for determining market value of suit land would be 1 & 1/2 year after the publication of (illegible) Notification under Section 6 i.e., 17.06.1993 and consequently both parties agree and admit that Market Value be determined as on 17.12.1994 date.

- (b) It is further directed that the petitioner shall hand over vacant and peaceful possession to the 4th Respondent through 2nd respondent within 4 weeks from the date of this order and that the petitioner Trust shall be paid the amount determined under the Award under section 11 by the 2nd respondent at the time of handing over possession.
- (c) It is further directed that the Petitioner Trust shall within 4 weeks file an Application to 2nd respondent under section 18 of the Land Acquisition Act and that the 2nd Respondent is directed to send the reference to District Court, Nasik within 4 weeks from the date of receipt. It is further directed that the District Court after hearing the reference shall determine the Market Value as on 17.12.1994 dated as agreed between the parties hereto.
- (d) The parties are at liberty to challenge the decision regarding valuation given in Reference in the District Court, in accordance with law.
- (e) The compromise & decision so arrived finally, should not be treated as a precedent.

In view of the above, petition shall stand disposed of. No order as to cost.”

- (v) Pursuant to the said order passed by the High Court, the payment was made to the appellant on 17.11.1997 and the possession of lands was handed over by the appellant. The appellant thereafter submitted an application on 03.12.1997 to respondent no. 2—Collector seeking reference to the District Court. The respondent No. 2—Collector accordingly referred the matter to the District Court on 18.12.1997.
- (vi) The Reference Court after considering the issue of limitation raised on behalf of the respondents in the said Reference, held that the Reference filed with the Collector was within the period of limitation as per the order of the High Court. The Reference Court further determined the amount of additional compensation to be paid to the appellant-trust vide the award dated 07.03.2006.

- (vii) The respondent no. 1- Committee, being aggrieved by the said award preferred the First Appeals being 1447 of 2006 and 1490 of 2006 before the High Court, which came to be allowed vide the impugned orders as stated herein above.

3. The learned senior counsel Mr. B.H. Marlapalle appearing for the appellant- trust submitted that findings arrived at by the High Court with regard to the issue of limitation are *ex facie* erroneous. According to him, though the consent terms, more particularly, clause (c) thereof was not happily worded, the High Court while disposing of the Writ Petition vide the order dated 20.10.1997 had specifically directed the Reference Court to determine the market value of the lands in question as on 17.12.1994 as agreed between the parties, and therefore, the respondents could not have raised the issue of limitation contained in Section 18 of the Act. He further submitted that both the parties had to act in terms of the order passed by the High Court based on the consent terms, and therefore the respondent-Committee could not have raised the issue of limitation under Section 18.

4. *Per Contra*, the learned senior Counsel Mr. Parag Tripathi appearing for respondent no. 1- Committee pressing into service clause (c) of the consent terms vehemently submitted that there being no time limit mentioned in the said clause, it was required to be construed that the appellant- trust had to make an application to the second respondent under Section 18 of the said Act within four weeks from the date of the order passed by the High Court i.e. from 20.10.1997 and the appellant having made the application seeking reference on 03.12.1997 i.e. after four weeks of the order dated 20.10.1997, such an application was clearly barred by limitation in view of the consent terms as well as under Section 18 of the said Act.

5. Having carefully gone through the order dated 20.10.1997 passed by the High Court in Writ Petition No. 607 of 1996 based on the consent terms arrived at between the appellant- trust and the respondent no. 1- Committee, and the award passed by the Reference Court as also the impugned judgments and orders passed by the High Court, we are of the opinion that the issue of limitation raised by respondent- Committee before the Reference Court and before the High Court was not only not tenable but was highly unreasonable and improper. As discernible from the consent terms, the very purpose of arriving at the said consent terms was to do away with the hardship caused

to both the parties because of the pendency of the Writ Petition. A monetary loss was being caused to the appellant- trust as it was losing the interest on the awarded amount under Section 11 of the said Act, and the respondent no. 1- Committee though was in dire need of the land, was deprived of the possession of the said lands under Acquisition. As per the said consent terms, both the parties had agreed that the relevant date for determining the market value of the lands in question would be 17.12.1994. It was further agreed that the appellant-trust would hand over the vacant and peaceful possession to the respondent-Committee and the appellant would be paid the amount determined under the Award under Section 11 of the Act by the respondent- Committee within four weeks from the date of the order passed by the Court. Lastly, it was agreed that the appellant- trust shall within a period of four weeks file an application to the respondent no. 2 under Section 18 of the Act and the respondent no. 2 shall send the said reference for determination of value of the land as on 17.12.1994 to the District Court, Nashik. The High Court disposed of the said Writ Petition giving directions in terms of the said consent terms.

6. Now, since the consent terms as well as the directions contained in the order of High Court were silent as to within what period the appellant should make application to the respondent- Collector seeking Reference under Section 18 of the Act, the respondent- Committee taking undue advantage of such ambiguity in the consent terms, raised the issue of limitation before the Reference Court. Such a plea raised after taking over the possession of lands in question from the appellant was not only not in consonance with the tenor of the consent terms but it smacked of ulterior motive on the part of the respondent. The High Court while disposing of the Writ Petition No. 607 of 1996 had given directions in terms of the consent terms, and both the parties were expected to act accordingly. In view of said directions given by the High Court, the issue of limitation contained in Section 18 of the Act had clearly paled into insignificance, and the respondent could not have raised such a plea before the Reference Court or before the High Court.

7. There cannot be any disagreement to the legal proposition that in view of the proviso to Section 18 of the said Act, every application to the Collector seeking reference under Section 18 is required to be made within the time limit prescribed in the proviso to Section 18. However, in the instant case, the parties having entered into the consent terms on 20.10.1997 after the award under

Section 11 was made on 12.01.1996, and the respondent having specifically agreed to pay the compensation awarded under Section 11 and take over the vacant and peaceful possession of the lands in question from the appellant as also having agreed to make reference to the District Court, Nashik, for the determination of market value of the said lands as on 17.12.1994, it did not lie in the mouth of the respondent- Committee to say that the application made by the appellant- trust seeking reference to the District Court, Nashik was beyond the period of limitation prescribed under Section 18 or was not in consonance with the consent terms arrived at between the parties. Since the market value of the lands as on 17.12.1994 which was the reckonable date agreed by the parties, was required to be determined by the District Court, Nashik, making of an application to the Collector seeking a Reference under Section 18 was a sheer procedural formality required to be followed by the appellant. Though the consent terms and the directions of High Court were silent as to within what period the appellant had to make such an application, it was required to be construed that appellant had to make application after it received the compensation awarded under Section 11 and after it handed over possession of the lands, which it did.

8. It cannot be gainsaid that as per the rules of doctrine of harmonious construction, the document has to be read as a whole and in its totality. If there is any ambiguity either patent or latent, in any of the clauses of the document, the courts should interpret such clause in such manner which is consistent with the other clauses and with the purpose and intent of the parties executing it.

9. The Reference Court after considering all the legal and factual aspects of the matter had rightly held that the Reference was filed with the Collector within the period of limitation as per the order passed by the High Court. In our opinion, the High Court had committed gross error in interfering with the said well-reasoned findings recorded by the Reference Court, and in setting aside the entire award and remanding the matter back to the Reference Court for deciding it afresh. The impugned judgments and orders passed by the High Court being *ex facie* erroneous, the same are set aside.

10. In that view of the matter, both the appeals are allowed.