



IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

RFA No. 233/2017 and C.O. No. 24/2022

Reserved On: 17.10.2025

Decided on: 7.11.2025

Secretary (IPH) & ors.

.....Appellants

Versus

Mangal Devi (died and deleted) & ors.

....Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹ Yes

For the Appellants: Mr. J. S. Guleria, Dy.A.G.

For the Respondents: Mr. Bhuvnesh Sharma, Sr. Advocate with Mr. Shekhar Badola and Mr. Parv Sharma, Advocate, for respondents No. 2 to 4, 5(a), 5(b), 6(a) and 6(b).

Romesh Verma, Judge

The present appeal arises out of the award, as passed by the learned Additional District Judge Hamirpur, dated 23.9.2015, whereby the reference petition under Section 18 of the Land Acquisition Act 1894 (for short, the Act), as preferred by the claimants/respondents, has been allowed.

¹Whether reporters of the local papers may be allowed to see the judgment? Yes.

Whereas, the respondents have filed the cross-objections for enhancement of the compensation amount.

2 The facts of the case are that the land was utilized by the present appellants-State for the construction of Water Supply Scheme (WSC) Hamirpur in village Ghanal Khurd, Mauja Bajuri, Tehsil and District Hamirpur. Notification under Section 4 of the Act was issued by the Land Acquisition Collector on 1.2.1999 and pursuant thereto, notification under Section 6 of the Act was issued on 21.1.2000. The Land Acquisition Collector, HPPWD, Central Zone, Mandi, vide award dated on 23.3.2002 awarded the compensation in favour of the respondents for the acquisition of the land as under:-

Sr. No.	Classification of land	Awarded amount per kanal
1	Barani Do Fasli	Rs.1,08,111
2	Barani Ek Fasli	Rs. 54,056
3	Bandoh Banjar	5792

3 As far as house/structure and trees are concerned, it was observed by the LAC that neither there is any house/structure nor any tree is existing over the acquired land. The LAC awarded compulsory acquisition charges @ 30%

of the market value of land as per the Act to the respondents in addition to the the market value of the land under Section 23(2) of the Act, which was worked out to be Rs.10078/-. Further, in addition to the above, an amount @ 12% per annum was ordered to be paid to the respondents in addition to the market value of the land under Section 23(1-A) of the Act from the date of publication of notification under Section 4 to the date of award of the Collector. Thus, compensation under the aforesaid provisions of law for the period w.e.f. 4.9.1999 to 23.3.2002 was worked to be Rs.10293/-.

4 The LAC also awarded interest @ 9% per annum for the 1st year and thereafter 15% per annum w.e.f. 4.9.1999 to 31.5.2002, amounting to Rs.11803/-. Thus, the total amount of compensation, as was finally determined and awarded for the acquired land, reads as under:-

Sr. No.	Particulars	Compensation as awarded
1	Cost of land	Rs.33593
2	30% compulsory acquisition charges under Section 23(2)	Rs.10078
3	12% additional market value under Section 23(1-A) from the date of publication of notification under Section 4 to the date of award of the collector w.e.f. 4.9.1999 to 23.3.2002	10293
4	Interest 9% & 15% w.e.f. 4.9.1999 to 31.5.2002	11803
	Total	65767

5 Feeling dissatisfied with the aforesaid award passed by the LAC, the respondents preferred a petition under Section 18 of the Act before the learned reference court for enhancement of the compensation amount. Along with the petition, an application under Section 5 of the Limitation Act for condonation of delay was also preferred by the respondents and the same was filed on 27.2.2006.

6 The learned reference court vide its award dated 23.9.2015 allowed the reference petition and granted the compensation in favour of the respondents as follows:-

Market value of the land acquired irrespective of its nature.	Rs.14,000/- per marla
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7 In addition to above, the learned reference court also held entitled the respondents for other charges as permissible under Section 23(1A), 23(2) and Section 28 of the Act.

8 The instant appeal has been preferred by the appellants-State against the award dated 23.9.2015, whereas the respondents have also preferred cross objections for enhancement of the amount of compensation.

9 I have heard Mr. J. S. Guleria, learned Deputy Advocate General, appearing for the appellants/State and Mr. Bhuvnesh Sharma, learned Senior Advocate, duly assisted

by Mr. Parv Sharma, Advocate, appearing for the respondents and has also gone through the records carefully.

10 Learned Deputy Advocate General has made twofold submissions in order to substantiate his contentions. Firstly, according to him, the reference petition, which was preferred by the respondents, was hopelessly time barred and the same ought to have been rejected by the learned reference court. He has submitted that the award was passed by the LAC on 23.3.2002 and the reference petition was preferred by the respondents on 25.7.2011, i.e. after elapse of more than 9 years. He has also contended that the learned reference court has not taken into consideration this crucial aspect of the matter and has wrongly passed the award, ignoring the fact that the reference petition was hopelessly time barred and it should have been rejected outrightly.

11 Learned senior counsel for the respondents has supported the award as passed by the learned reference court and has submitted that the reference petition as preferred by the respondents was well within period of limitation and the contention as being raised by the appellants- is misconceived.

12 In order to decide the controversy of limitation, perusal of the record reveals that the LAC has passed the award No. 74 dated 23.3.2002 and against the said award,

reference petition was preferred by the respondents on 27.2.2006. In the petition as filed by the respondents under Section 18 of the Act, it has been mentioned in para 11 of the petition that the respondents got knowledge about the award on 7.12.2005 from the Government Pleader in the Fast Track Court, Hamirpur in Civil Appeal No. 121/2000 RBT No. 36/2004, titled as Parbhat Chand vs. State of H.P., wherein it was disclosed by the Government Pleader on the date of hearing on 7.12.2005 that the acquisition of the land in question had taken place. It has been further averred in the petition that the respondents got the actual and constructive knowledge of the award on 7.12.2005 and thereafter taking necessary particulars from the concerned Department, the respondents applied for copy of award on 9.12.2005 and the copy was prepared and delivered on 4.1.2006.

13 Even though, according to the respondents, the reference petition was within period of limitation from the date of knowledge, however along with reference petition, an application under Section 5 of the Limitation Act was also preferred by the respondents to condone the delay, if any.

14 Record further reveals that in para 5 of the application for condonation of delay, same averments with regard to date of knowledge have been made as have been

made in the main petition. The respondents have also placed on record order sheet, Ext.P4 of C.A. No. 121/2000 (supra) and perusal whereof shows that on 7.12.2005, the said C.A. was listed before the learned Presiding Officer, Fast Track Court, Hamirpur and on the said date, the government pleader appearing for the State submitted that the suit land had been acquired as a whole vide notification pertaining to year 1999. Counsel for the respondents submitted that the suit land had not been acquired as a whole rather vide notification pertaining to the year 2001 only 1 kanal 5 marlas of land out of the total suit land had been sought to be acquired. The Government Pleader on that submitted that 5 kanals 16 marlas of land had been acquired, out of which compensation had also been deposited and some of the land owners had already received the compensation. Counsel for the respondents and the Government Pleader sought time to verify all these facts and prayed for adjournment. The learned Fast Track Court granted the adjournment and for the purpose of verification, the case was listed for 4.1.2006.

15 Perusal of this document, Ext. P4 clearly reveals that the respondents acquired knowledge of acquisition of land on 7.12.2005 and immediately within period of limitation, on 27.2.2006, the petition for enhancement along with an

application for condonation of delay was preferred by the respondents.

16 Record also demonstrates that Parbhat Chand, predecessor-in-interest of the respondents, was pursuing the matter and he died on 25.3.2003, whereas the respondents, being legal heirs of Parbhat Chand, who have preferred petition under Section 18 of the Act, came to know about passing of the award for the first time on 7.12.2005, as observed above, therefore, no negligence can be attributed to them and the learned Reference Court has rightly come to the conclusion that from the date of knowledge, the petition, which was filed by the respondents, is well within period of limitation.

17 Even one of the respondents, Ramesh Chand, son of Sh. Prabaht Chand, who entered the witness box as PW5, deposed that the petition under Section 18 of the Limitation Act was preferred in the office of the LAC in the month of February 2006. Nothing concrete was extracted by the State Counsel in cross-examination.

18 The appellants while examining its witnesses could not elucidate the concrete evidence in order to show that the petition filed by the respondents for enhancement was time barred nor any substantive evidence has been led by the State on this point. Ext. P4 clearly shows that the respondents were

agitating that the entire land has not been acquired, wherein government pleader disclosed before the Court that the entire land has been acquired and for the purpose of verification, the case was adjourned. This clearly shows that the fact of the acquisition of the land came to the knowledge of the respondents only when it was disclosed by the Government Pleader.

19 The provisions as contained in the Act have to be read liberally. Where the award was passed, neither it was communicated to the party or it was not in the knowledge of the party in that regard, knowledge of the award does not mean a mere knowledge of the fact that the award has been made. The knowledge must relate to the essential contents of the award. Such person must be knowing the contents actually or constructively. In case a party present in the Court either personally or through his representative, when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act knowledge of the award must mean knowledge of the essential contents of the award.

20 Sections **12 and 18** of the Act, which have bearing on the decision of this appeal read thus:-

“12. Award of Collector when to be final.”-(1) Such award shall be filed in the Collector’s office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

18. Reference to Court.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) 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 the Collector’s award;

(b) In other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2), or within six months from the date of the Collector’s award, whichever period shall first expire.

21 A bare perusal of the above reproduced provisions shows that by virtue of Section 12(1), an award passed by the Collector is treated final and conclusive evidence of the area and value of the land and apportionment of the compensation among the persons interested. In terms of Section 12(2), the Collector is required to give notice of award to the interested persons who are not present either personally or through their representatives at the time of passing of award. Section 18(1) provides for making of reference by the Collector to the Court for the determination of the amount of compensation etc. Section 18(2) lays down that an application for reference shall be made within six weeks from the date of the Collector's award, if at the time of making of award the person seeking reference was present or was represented before the Collector. If the person is not present or is not represented before the Collector, then the application for reference has to be made within six weeks of the receipt of notice under Section 12(2) or within six months from the date of the passing of the award by the Collector, whichever period shall first expire.

22 The reason for providing six months from the date of the award for making an application seeking reference, where the applicant did not receive a notice under Section 12(2) of the

Act, while providing only six weeks from the date of receipt of notice under Section 12(2) of the Act for making an application for reference where the applicant has received a notice under Section 12(2) of the Act is obvious. When a notice under Section 12(2) of the Act is received, the person interested is made aware of all relevant particulars of the award which enables him to decide whether he should seek reference or not. On the other hand, if he only comes to know that an award has been made, he would require further time to make enquiries or secure copies so that he can ascertain the relevant particulars of the award. What needs to be emphasized is that alongwith the notice issued under Section 12(2) of the Act, the land owner who is not present or is not represented before the Collector at the time of making of award should be supplied with a copy thereof so that he may effectively exercise his right under Section 18(1) to seek reference to the Court.

23 This is so held by the Hon'ble Supreme Court in ***Premji Nath vs. State of Gujarat, AIR 2012 SC 1624***. The issue involved in the instant lis so far as this Court is concerned is no longer *res integra* in view of lucid exposition of law by this Court in ***Hari Singh Vs. General Manager, 2016 (2) ILR 896*** wherein it was observed as under:-

[16] Mr. Anuj Nag, Advocate has vehemently argued that the reference petitions have not been filed within the period of limitation. However, the fact of the matter is that the Award was made on 27.1.1999. The reference petitions were received in the Reference Court on 4.12.1999 though filed on 20.2.1999. It has come in the statement of PW-8 Chaman Lal Patwari, Thein Dam, Land Acquisition Office Dalhousie that before sending the land reference petitions to the Court, the same were lying with the Senior Assistant of Land Acquisition Collector. He has sought voluntary retirement. It was the responsibility of the Land Acquisition Collector to send the references within the period prescribed. Moreover, in the present case, no notice under Section 12 (2) of the Act was issued to the claimants. Award was made in the absence of the claimants. The delay, in fact, was on the part of the Land Acquisition Collector and the claimants can not be held responsible for the same. Thus, the reference court has rightly concluded that the reference petitions were within limitation.

[17] Their Lordships of the Hon'ble Supreme Court in State of Punjab vs. Mst. Qaisar Jehan Begum and another, 1963 AIR(SC) 1604 have held that where the award was never communicated to the party the question is when did the party know the award either actually or constructively. Knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. Their Lordships have held as under:

[5] As to the second part of cl. (b) of the proviso, the true scope and effect thereof was considered by

this court in [Harish Chandra s case](#), 1962 1 SCR 676. It was there observed that a literal and mechanical construction of the words "six months from the date of Collector's award" occurring in the second part of cl. (b) of the proviso would not be appropriate and "the knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice, the expression used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. Admittedly the award was never communicated to the respondents. Therefore the question before us boils down to this. When did the respondents know the award either actually or constructively? Learned counsel for the appellant has placed very strong reliance on the petition which the respondents made for interim payment of compensation on December 24, 1954. He has pointed out that the learned Subordinate Judge relied on this petition as showing the respondents date of knowledge and there are no reasons why we should take a different view. It seems clear to us that the ratio of the decision in [Harish Chandra s case](#), 1962 1 SCR 676 is that the party affected by the award must know it, actually or constructively, and the period of six months will run from the date of that knowledge. Now, knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party under S. 12 (2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it. or not. Similarly when a party is present in court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of the essential contents of the award. Looked at from that point of view, we do not think that it can be inferred from the petition dated December 24, 1954 that the respondents had knowledge of the award one of the respondents gave evidence before the learned Subordinate Judge and she said :

"The application marked as Ex. D-1 was given by me but the amount of compensation was not known to me, nor did I know about acquisition of the land. Chaudhari Mohd. Sadiq, my Karinda had told me on the day I filed the said application that the land had been acquired by the Government."

This evidence was not seriously contradicted on behalf of the appellant and the learned Subordinate Judge did not reject it. It is worthy of the note that before the Collector also the appellant did not seriously challenge the statement of the respondents that they came to know of the award on July 22, 1955 the date on which the compensation was paid. On the reply which the appellant filed before the learned Subordinate Judge there was no contradiction of the averment that the respondents had come to know of the award on July 22, 1955. That being the position we have come to the conclusion that the date of knowledge in this case was July 22, 1955. The application for a reference was clearly made within six months from that date and was not therefore barred by time within the meaning of the second part of cl. (b) of the proviso to S.18 of the Act.

[18] Their Lordships of the Hon'ble Supreme Court in [Pratap Narain vs. The Chief Commissioner, Delhi and others](#), 1969 3 SCC 631, have held that in a case where the appellant had not received any notice of the making of the award and consequently his application under section 18 was within time, this plea was not controverted by the respondents, the Land Acquisition Officer was not justified in refusing to exercise his statutory duty. Their Lordships have held as under:

[3] The appellant's case is that he had not received any notice of the making of the award and consequently his application under section 18 was within time. This plea had not been controverted by the respondents in this court. The records produced by the appellant lend support to that plea. Hence prima facie the appellant's application under Section 18 was within time, see Raja Harish

Chandera Raj Singh v. The Deputy Land Acquisition Officer and another and State of Punjab v. Mst. Osisar Jehan Begum and Another. If the allegations made by the appellant are accepted as correct as we have to do on the basis of the pleadings and material before us then there is no doubt that the land Acquisition Officer was not justified in refusing to exercise his statutory duty.

[19] Learned Single Judge of Delhi High Court in *S. Gulab Singh vs. Union of India and another*, 1973 AIR(Del) 231 while relying *State of Punjab vs. Mst. Qaisar Jehan Begum and another*, 1963 AIR(SC) 1604 has held that where a person has no notice under section 12 (2), an application filed by him within six months from the date of knowledge of essential contents of the award is competent. Learned Single Judge has held as under:

[2] It is not disputed that the name of the petitioner is not shown as owner in the revenue records. The Land Acquisition Collector had made the award in December, 1958 and the application of the petitioner to make a reference under Section 18 was made on 8-2- 1962 (copy of which is Annexure-A to the Writ Petition). He has mentioned therein that no notice either under Section 9 or Section 12 (2) of the Act was served upon him and that only less than a month prior to the application he came to know that his land was acquired. The petition is sought to be resisted on the ground that no notice was served on the petitioner since he was not a person interested in the property in question and yet it is contended that his application was barred by time. Section 18 of the Act enables an application by a "person interested" not accepting the award to be referred by the Collector for the determination of the Court for determining the amount of compensation. Such an application has to be made

(a) within six weeks from the date of the Collector's award if the person making it was present or was represented before the Collector at the time when he made the award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

This provision was interpreted by the Supreme Court in [Harish Chandra Raj Singh v. Deputy Land Acquisition Officer](#), 1961 AIR(SC) 1500. Gajendragadkar, J. (as his Lordship then was) explained the legal position in the following terms :

"The knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice the expression "the date of the award" used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. In our opinion, therefore, it would be unreasonable to construe the words "from the date of the Collector's award" used in the proviso to Section 18 in a literal or mechanical way".

[3] It was specifically observed by S. K. Das, J. in [State of Punjab v. Mst. Qaisar Jeham Begum](#), 1963 AIR(SC) 1604 that knowledge of the award does not mean a mere knowledge of the fact that an award has been made and that the knowledge must relate to the essential contents of the award which may be known actually or constructively. The impugned order dismissing the application for making a reference under Section 18 of the Act on the ground that it had not been filed within a period of six months from the date of the Collector's award is not correct and has to be quashed. It is hereby quashed.

[20] Division Bench of Bombay High Court in [State of Maharashtra and another vs. Abdul Sattar and others](#), 1995 AIR(Bom) 85 has held that no notice under section 12 (2) issued to the claimants, the application for reference made few days after claimants received payment is well within time prescribed. Division Bench has held as under:

[8] It is an admitted fact that the award passed by the Special Land Acquisition Officer does not bear the date. That necessarily means that it was not known when the award was passed. The record also does not show that any notice was served on any of the claimants under section 12(2) of the Act. No office copy of such notice having been issued finds place in the record. The claimant No.1 has stated that no notice was served on any of the claimants intimating about the passing of the award. It may be stated that, as observed by the Court below, the payment was received by the claimants under protest on 20-6-1977 and the application for reference was made on or about 1-7-1977 but it was sent to the Court on 1-4-1980. It is clear from the record that none of the claimants had any knowledge about passing of the award until they received the amount of compensation under protest. The Court below was, therefore, justified in recording a finding that the application for reference to the Court under section 18 of the Act was well within six months from the date of passing of the award by the Special Land Acquisition Officer. The learned Special Counsel for the appellants has not been able to dis-lodge this finding of fact recorded by the Court below. There is, therefore, no force in the contention of the learned Counsel for the appellant that application for reference was not within the time prescribed under Clause (a) of sub-section (2) of section 18 of the Act. The application for reference was well within the time under clause (b) of sub-section (2) of section 18 of the Act.

[21] Learned Single Judge of Karnataka High Court in *The Spl. Land Acquisition Officer vs. Tukkarreddy*, 1996 AIR(Kar) 26 has held that if the authority does not act at all, the entire period that has elapsed as a result on the part of the default of the authority will on an analogy of the provisions of section 15 (2) of the Limitation Act necessarily have to be excluded while computing limitation. In this case also, the application was filed in time but there was delay in making reference on the part of the authorities.

[22] Their Lordships of the Hon'ble Supreme Court in [Bhagwan Das and others vs. State of Uttar Pradesh and others](#), 2010 3 SCC 545 have held that if person interested or his representative was not present when the award was made, and if he does not receive notice under section 12 (2) from Collector, he can make application within six months of the date on which he actually or constructively came to know about contents of the award. Their Lordships have held as under:

[28] The following position therefore emerges from the interpretation of the proviso to section 18 of the Act :

(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make the application within six weeks from the date of the Collector's award itself.

(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking reference within six weeks of the receipt of the notice from the Collector under section 12(2).

(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the notice under Section 12(2) from the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents of the award.

(iv) If a person interested receives a notice under section 12(2) of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot claim the benefit of the provision for six months for making the application on the ground that the date of receipt of notice under section 12(2) of the Act was the date of knowledge of the contents of the award.

[23] Their Lordships of the Hon'ble Supreme in [Raja Harish Chandra Raj Singh vs. The Deputy Land Acquisition Officer](#)

and another, 2011 6 SCC 47 have held that 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. So the knowledge of the party affected by the award made by the Collector under section 12 of the Land Acquisition Act, 1894, either actual or constructive is an essential requirement of fair play and natural justice. Their Lordships have held as under:

[6] There is yet another point which leads to the same conclusion. If the award is treated as an administrative decision taken by the Collector in the matter of the valuation of the property sought to be acquired it is clear that the said decision ultimately affects the rights of the owner of the property and in that sense, like all decisions which affect person, it is essentially fair and just that the said decision should be communicated to the said party. The knowledge of the party affected by such a decision, either actual or constructive, is an essential element which must be satisfied before the decision can be brought into force. Thus considered the making of the award cannot, consist merely in the physical act of writing the award or signing it or even filing it in the office of the Collector : it must involve the communication of the said award to the party concerned either actually or constructively. If the award is pronounced in the presence of the party whose rights are affected by it, it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. Similarly if without notice of the date of its pronouncement an award is pronounced and a party is not present the award can be said to be made when it is communicated to the party later. The knowledge of the party affected by the award,

either actual or constructive, being an essential requirement of fairplay and natural justice the expression "the date of the award" used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. In our opinion, therefore, it would be unreasonable to construe the words "from the date of the Collector's award" used in the proviso to S. 18 in a literal or mechanical way.

[11] A similar question arose before the Madras High Court in [Annamalai Chetti v. Col. J. G. Cloete](#), 1883 6 ILR(Mad) 189, Section 25 of the Madras Boundary Act XXVIII of 1860 limited the time within which a suit may be brought to set aside the decision of the settlement officer to two months from the date of the award, and so the question arose as to when the time would begin to run. The High Court held that the time can begin to run only from the date on which the decision is communicated to the parties. "If there was any decision at all in the sense of the Act", says the judgment, "it could not date earlier than the date of the communication of it to the parties; otherwise they might be barred of their right of appeal without any knowledge of the having been passed". Adopting the same principle a similar construction has been placed by the Madras High Court in [Swaminathan v. Lakshmanan Chettiar](#), 1930 AIR(Mad) 490 on the limitation provisions contained in Ss. 73 (1) and 77(1) of the Indian Registration Act XVI of 1908. It was held that in a case where an order was not passed in the presence of the parties or after notice to them of the date when the order would be passed the expression "within thirty days after the making of the order" used in the said sections means within thirty days after the date on which the communication of the order reached the parties affected by it. These decisions show that 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. Therefore, we are satisfied that the High Court of Allahabad was in error in coming to the conclusion that the application made by the

appellant in the present proceedings was barred under the proviso to S. 18 of the Act.

[24] *Their Lordships of the Hon'ble Supreme Court in [Premji Nathu vs. State of Gujarat and another](#), 2012 5 SCC 250 have held that the landowner who is not present or is not represented before Collector at the time of making of award should be supplied with a copy of award so that he may effectively exercise his right of reference under section 18 (1) of the Limitation Act. Their Lordships have held as under:*

[10] An analysis of the above reproduced provisions shows that by virtue of Section 12(1), an award made by the Collector is treated final and conclusive evidence of the true area and value of the land and apportionment of the compensation among the persons interested. In terms of Section 12(2), the Collector is required to give notice of his award to the interested persons who are not present either personally or through their representatives at the time of making of award.

13. Section 18(1) provides for making of reference by the Collector to the Court for the determination of the amount of compensation etc. Section 18(2) lays down that an application for reference shall be made within six weeks from the date of the Collector's award, if at the time of making of award the person seeking reference was present or was represented before the Collector. If the person is not present or is not represented before the Collector, then the application for reference has to be made within six weeks of the receipt of notice under Section 12(2) or within six months from the date of the Collector's award, whichever period shall first expire.

[25] *Their Lordships of the Hon'ble Supreme Court in [Madan and another vs. State of Maharashtra](#), 2014 2 SCC 720, have held that the date of the Collector's award used in proviso (b) to section 18 (2) must be understood to mean the date when award is either communicated to party or is*

known by him either actually or constructively. Their Lordships have held as under:

[9] From the order dated 29.10.1993 passed in L.A.R. No. 75/1992, it is, inter alia, clear that there was a dispute amongst the land owners (the appellants are one set of such land owners) in respect of their respective shares in the acquired land on account of which no apportionment of compensation was made by the Collector who made a Reference under Section 30 of the Act to the court. Further, in the order dated 29.10.1993 it is recorded that the appellants had no knowledge of the Award till the order dated 4.9.1991 came to be passed in the Reference under Section 30. In *Raja Harish Chandra Raj Singh* this Court has held that the expression "the date of the award" used in proviso (b) to Section 18(2) of the Act must be understood to mean the date when the award is either communicated to the party or is known by him either actually or constructively. It was further held by this Court that it will be unreasonable to construe the words "from the date of the Collector's award" used in the proviso to Section 18 in a literal or mechanical way. In the present case, it has already been noticed that a finding has been recorded by the Reference Court in its order dated 29.10.1993 that "the petitioners had no knowledge about the passing of the award till the date of payment of compensation on 5.9.1991 because they were held entitled to receive the compensation after the decision of Reference under Section 30 dated 4.9.1991."

[10] What transpires from the above is that it is for the first time on 4.9.1991 (date of the order under Section 30 of the Act) that the appellants came to know that they were entitled to compensation and the quantum thereof. It is not in dispute that the Reference under Section 18 was made within 6 weeks from the said date i.e. 4.9.1991. In the above facts, it is difficult to subscribe to the view taken by the High Court to hold that the Reference under Section 18 was barred by limitation.

[13] For the reasons aforesaid, we hold that the High Court had erred in allowing the appeal filed by the State and reversing the order dated 29.10.1993

passed by the Second Additional District Judge, Beed. The award of compensation in the instant case having been made by the Collector as far back as in the year 1985 and the amount involved being exceedingly small we have considered the basis on which enhancement of compensation was made by the learned Reference Court in its order dated 29.10.1993. On such scrutiny, we do not find any error in the view taken by the learned Reference Court. Therefore, in the peculiar facts of the case, while allowing this appeal and setting aside the order dated 09.09.2008 passed by the High Court we deem it proper to restore the order dated 29.10.1993 passed by the Second Additional District Judge in L.A.R. No.75 of 1995.

[26] Their Lordships of the Hon'ble Supreme Court in [Rajasthan Housing Board versus New Pink City Nirman Sahkari Samiti Limited and another](#), 2015 7 SCC 601 have held that the limitation period of six months from date of award for making reference to court commences from the date of actual or constructive knowledge of award. Their Lordships have held as under:

[11] The provisions of Rajasthan Land Acquisition Act are in pari materia with the provisions of the Land Acquisition Act, 1894 and section 12 of the Act of 1953 is extracted hereinbelow :

"12. Award of Collector when to be final.-(1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award or the amendment thereof to such of the persons interested as are not present personally or by their representatives when the award or the amendment thereof is made."

Section 12(2) requires immediate notice to be given of the award to such of the persons interested as are not present personally or by their representative/s when the award is made. Section 18(2) of the Act of 1953 requires to file the objections within six weeks from the date of the award if the person or the representative was present when the award was made. In other cases, within six weeks of the receipt of notice from the Collector under section 12(2) or within six months from the date of the award whichever period shall first expire.

24 It has not been established by the State that on the date of the passing of the award, said Prabhat Chand was present and nothing has been placed on record to show that any notice was given to the respondents or their predecessor-in-interest.

25 No evidence of any sort has been led by the State to establish that the respondents were having actual or constructive knowledge about the award passed in the matter. No oral as well as documentary evidence has been placed on record to establish that the award was communicated to the respondents or their predecessor-in-interest. No record in this regard has been placed to prove the contention of the State that the said reference petition as preferred was time barred. Thus, the plea being raised by learned State Counsel does not hold good and is liable to be rejected.

26 As far as second contention is concerned, learned State Counsel has submitted that the award as passed by the Reference Court is on higher side and the amount as granted by it is exorbitant and liable to be reduced since LAC has passed the award strictly in consonance with the provisions of the Act and the law.

27 The record reveals that the respondents in order to establish their claim have placed on record copies of sale deeds qua Village Ghanal Kurd, which are as under:-

Sr. No.	Date of Sale deed	Area	Amount of sale consideration
1	Ext.PW1/A (9.4.2002)	0-10 Marlas	Rs. 1,10,000/-
2	Ext. PW1/C (15.6.1996)	0-1 Marla	Rs.10,000/-
3	Ex.PW1/E (28.4.1993)	0-10 Marlas	Rs. 80,000/-
4	Ext.PW1/G (13.7.2005)	0-2 Marlas	Rs. 70,000/-
5	Ext. PW1/J (9.9.2005)	0-11 Marlas	Rs. 1,55,000/-
6	Ext. PW1/L (24.11.2003)	0-8 Marlas	Rs.40,500/-
7	Ext. PW1/N (19.9.2002)	0-1 Marla	Rs.15000/-

28 The aforesaid sale deeds clearly show that only two sale deeds i.e. Ext. PW1/C, dated 15.6.1996 and Ext. PW1/E, dated 28.4.1993 are prior to issuance of notification under Section 4 of the Act dated 1.2.1999. As far as remaining sale

deeds are concerned, the same are subsequent to the notification dated 1.2.1999.

29 The respondents in order to prove their case has examined PW3, who produced on record average value of the land situated in Mahal Ghanal Khurd for the period w.e.f. 1.1.2002 to 31.12.2002, as Ext. PW3/A and for the period 1.2.2005 to 31.1.2006 as Ext. PW3/B. Perusal of PW3/A reveals the value of the land with nature Barani-Do-Fasli to be Rs.18,260 per marla and Ext. PW3/B shows the value of the land to be Rs. 22170/- per marla.

30 Sale deed, dated 15.6.1996 Ext. PW1/C is depicting sale consideration of the land measuring 0-1 Marlas to be Rs.10,000/- and sale deed, dated 28.4.1993, Ext. PW1/E is reflecting the sale of land measuring 0-10 for total sale consideration of Rs.80,000/- (Rs.8000/- per Marla). Both sale deeds are prior to the notification and the learned Reference Court has rightly relied upon the said sale deeds. As far as remaining sale deeds are concerned, since the said deeds are subsequent to the issuance of notification, therefore, no reliance can be placed on the same.

31 The reference court has rightly held that since notification in the case at hand was published in the year 1999, keeping in view escalation in the prices of

the land in the area after 1999, the value of the land during the year 1999 has to be assessed. Therefore, a sum of Rs.14,000/- per marla, as assessed by the learned reference court, is just, proper and reasonable amount as well as fair market price of the acquired land per marla. The learned reference court has rightly adjudicated the point in controversy while coming to the conclusion that as per perusal of sale deeds, Ext. PW1/C and Ext. PW1/E the market value of the land has to be assessed keeping in view escalation charges @ Rs.14,000 per marla.

32 The State has examined Sh. Rajesh Kumar, Junior Engineer, as RW1, however he has only deposed that the LAC has rightly passed the award in favour of the respondents.

33 To the similar extent is the statement of Sh. Kishori Lal Naib Tehsildar, the then Kanungo, who entered the witness box as RW2. He deposed that the amount of compensation has rightly been awarded by the LAC in favour of the respondents and the award does not require any enhancement.

34 No material has been placed on record, which would depict or show that the amount assessed by the learned reference court is liable to be reduced. Rather learned Reference Court has rightly relied upon, sale deeds Ext. PW1/C and Ext. PW1/E and based upon which, amount of compensation has rightly been assessed.

35 Keeping in view the material facts as placed on record and keeping in view that the State has failed to establish that amount of compensation as assessed by the learned Reference Court is on the higher side without any evidence, the present appeal deserves to be dismissed. No error or illegality has been committed by the learned reference court as a result of which, no interference is required in the award passed by the learned reference court.

36 As far as cross-objections of the respondents are concerned for enhancement of the compensation amount, it is averred by the learned senior counsel for the respondents that amount of compensation as assessed by the learned reference court is on the lower side and it requires to be enhanced, on the other hand, the learned State counsel has submitted that the award is reasonable and it does not call for any interference.

37 Learned counsel for the respondents has failed to demonstrate from the record that how and under what circumstances the award needs to be enhanced.

38 In the present case, the land has been acquired for the purpose of water supply scheme, therefore, it cannot be said that the subsequent sale deeds would be with an intention to show the higher prices of the land in the area.

39 The documents and exhibited sale deeds, on which the learned counsel for the respondents has placed reliance for enhancement of the award, are subsequent to the issuance of notification as issued by the LAC on 1.2.1999 and as a result whereof, the possibility of these sale-deeds being for the purpose of inflating the price cannot be ruled out, moreover, when on being asked by the Court, no legal pronouncement was placed on record to substantiate the contention.

40 The Hon'ble Supreme Court in ***U.P. Jal Nigam vs. Kalra Properties (P) Ltd.***, (1996) 3 SCC 124 has held as under:-

"3. The learned Attorney General for the appellants contended that after the judgment, it has come to light that in respect of the self-same lands, the market value as per the guidelines issued by the Government was determined for stamp duty at Rs. 80/- per square yard in Ziamou area and the respondent himself had purchased the land for Rs. 60,000/- in 1989. The determination of the compensation by the Collector @ Rs. 200/- per square foot is an obvious error apparent on the face of the record and the directions issued by the Division Bench are vitiated by manifest error of law. Shri Gopal Subramanyam, the learned senior counsel, who has sought for and granted 15 adjournments on the ground that matter is being settled, has informed the Court that the settlement has not been reached and it is under process. He has sought further extension of time. Since the case has been adjourned several times, we are not inclined to adjourn the case. In his usual fairness, he has stated that he does

not stand on technicalities. The respondent has purchased the land in question. The acquisition covered about 10,000 square feet in addition, the respondent had purchased another 5,000/- square feet which was also taken possession of by the respondent under the notification but the same does not form part of the acquisition. He contended that since possession was taken before declaration under Section 6 was published, it was not validly taken. Admittedly, the award was not made even after two years of the coming into force of the Amendment Act. Therefore, the notification under Section 4(1) and the declaration under Section 6 shall stand lapsed by operation of Section 11A of the Act. Thereby, the respondent is entitled to the compensation on the basis of prevailing market value. The District Collector had assessed the market value at Rs.200/- per square foot and, therefore, there is no illegality in the order of the Division bench in directing payment of the compensation @ Rs. 200/- per square foot and also the consequential solatium and interest. Having regard to the facts of this case, we were not inclined to further adjourn the case nor to remit the case for fresh consideration by the High Court. It is settled law that after the notification under Section 4(1) is published in the Gazette any encumbrance created by the owner does not bind the Government and the purchaser does not acquire any title to the property. In this case, notification under Section 4[1] was published on March 24, 1973, possession of the land admittedly was taken on July 5, 1973 and pumping station house was constructed. No doubt, declaration under Section 6 was published later on July 8, 1973. Admittedly power under Section 17(4) was exercised dispensing with the enquiry under Section 5A and on service of the notice under Section 9 possession was taken, since urgency was acute, viz., pumping station house was to be constructed to drain out flood water.

Consequently, the land stood vested in the State under Section 17 [2] free from all encumbrances. It is further settled law that once possession is taken, by operation of Section 17(2), the land vests in the State free from all encumbrances unless a notification under Section 48(1) is published in the Gazette withdrawing from the acquisition. Section 11A, as amended by Act 68 of 1984, therefore, does not apply and the acquisition does not lapse. The notification under Section 4(1) and the declaration under Section 6, therefore, remain valid. There is no other provision under the Act to have the acquired land divested, unless, as stated earlier, notification under Section 48(1) was published and the possession are surrendered pursuant thereto. That apart, since M/s. Kalra Properties, respondent had purchased the land after the notification under Section 4(1) was published, its sale is void against the State and it acquired no right, title or interest in the land. Consequently, it is settled law that it cannot challenge the validity of the notification or the regularity in taking possession of the land before publication of the declaration under Section 6 was published.

The next question is: whether the respondent is entitled to compensation and, if so, from what date and at what rate? The original owner has the right to the compensation under Section 23(1) of the Act. Consequently, though the respondent acquired no title to the land, at best he would be entitled to step into the shoes of the owner and claim payment of the compensation, but according to the provisions of the Act. It is settled law that the price prevailing as on the date of the publication of the notification under Section 4(1) is the price to which the owner or person who has an interest in the land is entitled to. Therefore, the purchaser as a person interested in the compensation, since

he steps into the shoes of erstwhile owner, is entitled to claim compensation.”

41 In **Sneh Prabha vs. State of U.P. (1996) 7 SCC**

426, the Hon’ble Supreme Court has held as under:-

“5. Though at first blush, we were inclined to agree with the appellant but on deeper probe, we find that the appellant is not entitled to the benefit of the Land Policy. It is settled law that any person who purchase land after publication of the notification under Section 4(1), does so at his/her own peril. The object of publication of the notification under Section 4(1) is notice to everyone that the land is needed or is likely to be needed for public purpose and the acquisition proceedings point out an impediment to anyone to encumber the land acquired thereunder. It authorises the designated officer to enter upon the land to do preliminaries etc. Therefore, any alienation of land after the publication of the notification under Section 4(1) does not bind the Government or the beneficiary under the acquisition. On taking possessions of the land, all rights, titles and interests in land stand vested in the State, under Section 16 of the Act, free from all encumbrances and thereby absolute title in the land is acquired thereunder. If any subsequent purchaser acquires land, his/her only right would be subject to the provisions of the and/or to receive compensation for the land. In a recent judgment, this Court in Union of India v. Shivkumar Bhargava, 1995 (2) SCC 427 considered the controversy and held that a person who purchases land subsequent to the notification is not entitled to alternative site. It is seen that the Land Policy expressly conferred that right only on that person whose land was acquired.

In other words, the person must be the owner of the land on the date on which notification under Section 4(1) was published. By necessary implication, the subsequent purchaser was elbowed out from the policy and became disentitled to the benefit of the Land Policy.”

42 The Hon’ble Supreme Court in **V. Chandrasekaran vs. Administrative Officer (2012) 12 SCC 133** has held as under:-

“15. The issue of maintainability of the writ petitions by the person who purchases the land subsequent to a notification being issued under Section 4 of the Act has been considered by this Court time and again. In Lila Ram v. Union of India (1975) 2 SCC 547 this Court held that, any one who deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril. In Sneh Prabha v. State of U.P. (1996) 7 SCC 426, this Court held that a Section 4 notification gives a notice to the public at large that the land in respect to which it has been issued, is needed for a public purpose, and it further points out that there will be "an impediment to any one to encumber the land acquired thereunder". The alienation thereafter does not bind the State or the beneficiary under the acquisition. The purchaser is entitled only to receive compensation. While deciding the said case, reliance was placed on an earlier judgment of this Court in Union of India v. Shivkumar Bhargava (1995) 2 SCC 427.

16. Similarly, in U.P. Jal Nigam v. Kalra Properties (P) Ltd., (1996) 3 SCC 124, this Court held that, purchase of land after publication of a Section 4 notification in relation to such land, is void against the State and at the most, the purchaser may be a person interested in compensation, since he steps into the shoes of the

erstwhile owner and may therefore, merely claim compensation. [See also Star Wire (India) Ltd. v. State of Haryana. (1996) 11 SCC 698]

17. *In Ajay Krishan Shinghal v. Union of India, (1996) 10 SCC 721, Mahavir v. Rural Institute, (1995) 5 SCC 335, Gian Chand v. Gopalal (1995) 2 SCC 528, and Meera Sahni v. Lt. Governor of Delhi (2008) 9 SCC 177, this Court categorically held that, a person who purchases land after the publication of a Section 4 notification with respect to it, is not entitled to challenge the proceedings for the reason, that his title is void and he can at best claim compensation on the basis of vendor's title. In view of this, the sale of land after issuance of a Section 4 notification is void and the purchaser cannot challenge the acquisition proceedings. (See also Tika Ram v. State of U.P., (2009) 10 SCC 689)*

18. *In view of the above, the law on the issue can be summarised to the effect that a person who purchases land subsequent to the issuance of a Section 4 notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title."*

43 The learned Reference Court has rightly not relied upon the remaining sale deeds since these are subsequent and later in time to the notification issued under Section 4 of the Act. Moreover, remaining sale deeds cannot be taken to be an exemplar for determining the exact value of the acquired land,

but they can show only potential value and assessment of the land in area.

44 Therefore, under such circumstances, the respondents have failed to make out a case for enhancement of compensation. No error or infirmity has been committed by the learned Reference Court while passing the impugned award.

45 As regards sale deeds, which are prior to the date of notification, those, as discussed above, have already been taken into consideration by the learned Reference Court and thus, the Court has rightly assessed the market value of the acquired land to be Rs.14,000/- per marla.

46 No other point was urged by the respective parties.

47 In view of aforesaid discussions and for the reasons stated hereinabove, I find no merit in the appeal as well as cross objections and accordingly the same are dismissed, so also the pending application(s), if any.

7.11.2025
(pankaj)

(Romesh Verma)
Judge