

Before G. C. Mital, J.

RAM CHANDER and others,—Appellants

versus

STATE OF HARYANA and another,—Respondents.

Regular First Appeal No. 1765 of 1978.

May 22, 1980.

Land Acquisition Act (I of 1894)—Sections 9 and 25—Notice issued to landowners for filing claims under section 9—Written claim filed for compensation at market value of the land—No specific amount claimed therein—Oral claim however made claiming specific amount as compensation—Such oral claims—Whether admissible—Reference under such situation—Whether barred by section 25.

Held, that it is possible that in one case a written claim may be filed and in other case only an oral claim may be filed and yet in another case it is possible that written as well as oral claims may be filed. These claims would be competent in terms of section 9 of the Land Acquisition Act, 1894 and therefore reference would not be barred in terms of section 25 of the Act. (Para 6).

Regular First Appeal from the order of the Court of Shri J. C. Nagpal, Additional District Judge, Rohtak, dated the 31st day of August, 1978, holding that the market value was Rs. 100 per marla but the reference application was time barred and no specific claim had been made by the claimants and they are not entitled to enhancement and finally declining the reference.

G. S. Gandhi, Advocate, for the appellant.

Bhup Singh, Additional A. G. (H) and S. S. Ahlawat, Advocate, for the respondent.

JUDGMENT

Gokal Chand Mital, J.

(1) The State of Haryana by notification published on 30th January, 1973, acquired 132 acres of land in village Bohar, District Rohtak, for setting up a Tourist Complex and lake. The Land Acquisition, Collector by award, dated 28th November, 1973, awarded compensation at the rate of Rs. 6,000 per acre. Feeling dissatisfied, the claimants sought reference under section 18 of the Land Acquisition Act (hereinafter called the 'Act'), which was found to be within

time by the Collector, but when the matter came up before the Additional District Judge, the State took objections that the reference application was barred by time and that no specific claim was made in response to notice under section 9 of the Act and, therefore, by virtue of section 25 of the Act, the reference application was not competent and the compensation awarded by the Land Acquisition Collector could not be varied.

(2) On the contest of the parties, the following issues were framed :—

- (1) Whether the petition or reference made by the claimant is barred by time as the award was announced on 28th November, 1973 while the application for making reference was made on 14th January, 1974 ?
- (2) Whether the application requires to be amended as alleged in preliminary objection No. 2 of the written statement of the respondent-State ?
- (3) What was the market value of the land in question on the date of notification under section 4 of the Land Acquisition Act ?
- (4) Whether the award was bad as alleged in the replication of the petitioner because compensation was not paid at the time of the announcement of the award or within the time given in the award ?
- (5) Whether the claimant is barred from making the present application under section 25 of the Land Acquisition Act ?
- (6) Relief.

After the evidence was led, by order, dated 31st August, 1978, the Additional District Judge, Rohtak, found that the market value was Rs. 100 per Marla, but held that the reference application was time barred and that no specific claim had been made by the claimants and, therefore, they were not entitled to enhancement and with these observations, declined the reference. Against the aforesaid decision of the Additional District Judge, the claimants have come up in appeal to this Court.

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(3) The learned Additional Advocate-General has raised a preliminary objection that no appeal is competent in this Court as reference has been declined on one of the grounds that it was time barred. This point has already been dealt with by me in *Pokhar Singh vs. State of Haryana* (1), and I have held that the appeal is competent. Therefore, for the reasons recorded in *Pokhar Singh's case* (supra), I hold that the appeal is competent.

(4) So far as the market value of the acquired land is concerned, the parties are not at variance and they are agreed that it would be Rs. 140 per Marla in view of the Division Bench decision of this Court in *Balbir Singh vs. State of Haryana and another*, (2) which related to more than three years earlier acquisition in the same village.

(5) In this case, there was no application for condonation of delay under section 5 of the Limitation Act, but in the reference application itself, filed on 14th February, 1974, the claimants had stated that on 11th February, 1974, on inspection of the file, they came to know that the award was made on 28th November, 1973. The Land Acquisition Collector referred the matter to the District Court by holding that it was within time. The learned Court below has only adverted to two dates, i.e., the date on which the award was announced and the date of filing of reference application, and without adverting to other matters on record, it held that the reference was time barred. The seven references which were being considered by him, arose out of the same acquisition proceedings. The notice under section 9 of the Act for filing claim was also given for 28th November, 1973, and the award was also given in all the cases on the same very day. All the reference applications have been dealt with by the Court below together and evidence was also recorded at one place. Therefore, most of the matter has already been adverted to by me in this regard in *Pokhar Singh's case* (supra) and need not be repeated again. However, some additional facts deserve to be noticed. According to R.W. 2, Hazari Singh, Reader to the Land Acquisition Collector, Dalip, who is one of the four claimants, was present at the time of making the statement as also the announcement of the award. Other three claimants were

(1) R.F.A. 1707—78 decided on 21st May, 1980.

(2) 1979 P.L.J. 416.

not present and it is not shown that Dalip had the authority to represent them and, therefore, it was necessary for the Land Acquisition Collector to give information of the award to them, as required by section 12(2) of the Act. Section 12(2) of the Act enjoins a duty on the Land Acquisition Collector to give information of his award to all those persons who are not present before him, either personally or by their representatives. Accordingly, the Land Acquisition Collector should have issued notices to them about the award as required by section 12(2) and his failure to do so cannot make reference on behalf of other three claimants as time barred, as the same had been filed well within the period of six months from the date of announcement of the award. According to *State of Punjab vs. Mst. Qaisar Jehan Begum and another* (3), the limitation of six months starts from the date of knowledge of the contents of the award. Therefore, so far as the three other claimants are concerned, their claim application, in any event, was within limitation. As regards Dalip, who was present before the Land Acquisition Collector, for filing claim, his case is identical with the case of claimant in *Pokhar Singh's case* (supra) and for the reasons recorded therein, I hold that even he was not present at the time of announcement of the award and, therefore, qua him also, limitation would be six months from the date of knowledge and his reference application is also well within six months even from the date of award. Therefore, I hold that reference application of all the claimants was within time and I reverse the finding of the Court below in this regard.

(6) This brings me to the question whether the claimants had made claims for any specific amount or not, in pursuance of notice under section 9 of the Act. It is true that in the claim which was filed, it was stated that they should be allowed the market value, but orally they made claim ranging from Rs. 50,000 to Rs. 60,000 per Acre, which clearly finds mention in the award of the Land Acquisition Collector, as would be borne out from a reading of para 5 of the award itself. The Land Acquisition Collector has clearly written in the award that the claimants present before him had claimed compensation between Rs. 50,000 to Rs. 60,000 per acre. The learned Additional Advocate-General has fairly conceded that

(3) A.I.R. 1963 S.C. 1604.

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it is not the requirement of law to make a claim in writing but he urges that in the present case, a written claim was made and, therefore, there was no question of submitting any oral claims. It is possible that in one case only a written claim may be filed and in another case only an oral claim may be filed and yet in another case it is possible that written as well as oral claims may be filed. The present case is of third kind, as I find on record a written claim, in which amount has not been specified, and the oral claim has been noticed in the award itself, which is specific, varying from Rs. 50,000 to Rs. 60,000 per acre. Accordingly, the Court below was in error in coming to the conclusion in spite of para 5 of the award of the Land Acquisition Collector, that no specific claim was made and, therefore, reference was barred under section 25 of the Act. Accordingly, I reverse the finding of the Court below in this regard also.

(7) Since both the adverse findings recorded by the Court below have been reversed by me, the claimants would be entitled to compensation at the rate of Rs. 140 per Marla subject to the Court fee paid in this Court.

(8) For the reasons recorded above, this appeal is allowed with proportionate costs and the claimants would be entitled to compensation at the rate of Rs. 140 per Marla, instead of Rs. 6,000 per acre awarded by the Land Acquisition Collector, but the enhanced amount would not increase Rs. 8,000, over and above what has been awarded by the Land Acquisition Collector, as a Court fee of Rs. 950.30 has been paid in this Court. Besides the above, the claimants would be entitled to 15 per cent solatium and 6 per cent per annum interest on the enhanced amount, from the date of taking of possession till payment, counsel's fee being Rs. 100.

H. S. B.