

REVISIONAL CIVIL.

*Before Bhandari, C.J.*INDER DEV, MADAN GOPAL,— *Petitioner.**versus*THE PUNJAB STATE.—*Respondent.*

Civil Revision No. 385 of 1956.

1957

May, 22nd

*Revision—Limitation—Delay in filing revision—Effect of—Laches, when can be condoned.**Land Acquisition Act (I of 1894)—Section 18—Reference withdrawn on understanding given by Minister—Whether such withdrawal amounts to abandonment of the claim to have the matter referred under section 18 of the Act.*

Held, that a person who presents a revision petition after the lapse of a period which is similar or comparable to one appearing in the Indian Limitation Act cannot be allowed the relief claimed by him, for the Courts cannot come to the rescue of a person who has slept upon his rights without reasonable excuse or justification. But relief cannot be denied to a person who is in a position to offer a reasonable explanation for his laches in asserting his rights, when the delay has been caused by the conduct of the respondent.

Held, that the claim was withdrawn in view of the assurance given by the Minister-in-charge that land would be allotted elsewhere in lieu of the land which had been acquired. Therefore, the contention that the petitioners cannot be allowed to secure a reference under section 18 of the Act of 1894, and resile from their admission that they did not wish to proceed with their claim for compensation cannot be upheld.

Petition under section 115 of Act V of 1908, for revision of the order of Shri Kartar Singh, Land Acquisition Collector, Bhakra-Nangal Project Colony, Hissar, dated the 23rd September, 1955, refusing the reference of the Civil Court.

NAND LAL SALUJA, for Petitioner.

LACHHMAN DAS KAUSHAL, Deputy Advocate-General, for Respondent.

JUDGMENT.

BHANDARI, C. J. This petition raises the question whether the petitioners can be deemed to have abandoned their claim to have a certain matter referred to the District Judge under the provisions of section 18 of the Land Acquisition Act, 1894. Bhandari, C. J.

Some land belonging to the petitioners was acquired under the provisions of the Land Acquisition Act, 1894. The Collector gave his award on the 29th March, 1955 and the petitioners requested the Collector to refer the matter to the District Judge on the 29th April, 1955. On the 23rd September, 1955, the petitioners informed the Collector that they did not wish to proceed with their application for compensation in regard to the land, the brick-kiln or the bricks and on the same day the Collector passed a short order which was in the following terms:—

“As the prayer has been withdrawn, there is no need to refer the matter to the Civil Court. The Land Acquisition Collector is competent to choose not to make a reference or to refuse to do so,—*vide* A.I.R. 1930 Lahore 242 and A.I.R. 1940 Lahore 299. Hence I choose not to make the reference.”

On the 11th July 1956 the petitioners requested the Collector to review his order as the statement made by them on the 23rd September, 1955, was made under a misapprehension, but the Collector expressed his inability to accede to this request and declined to refer the case to the District Judge. On the 20th September, 1956 the petitioners presented this application under the provisions of sub-sections (3) of section 18 of the land Acquisition Act.

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Mr. Kaushal, who appears for the State, has placed two submissions before me. It is contended in the first place that the present petition is hopelessly barred by time, for although the order declining to refer the matter to the District Judge was passed as long ago as the 23rd September, 1955, the revision application was not presented to this Court till the 20th September, 1956, that is till after the lapse of almost a year from the date of the order under revision. Mr. Salooja, who appears for the petitioners, contends that after his clients had made an application for a reference under section 18 of the Act of 1894 the Minister-in-charge of the Department concerned gave them an assurance that they would be given some land in lieu of the land which had been acquired from them and that it was in consequence of this assurance that they withdrew a part of their claim on the 23rd September, 1955. A copy of a note recorded by the Hon'ble Minister in the year 1955 has been produced in support of this contention. I am of the opinion that the petitioners withdrew the claim in view of the assurances which were given to them by the Minister-in-charge that they would be allotted land elsewhere in lieu of the land which had been acquired from them.

It is true that a person who presents a revision petition after the lapse of a period which is similar or comparable to one appearing in the Indian Limitation Act, cannot be allowed the relief claimed by him, for the Courts, cannot come to the rescue of a person who has slept upon his rights without reasonable excuse or justification ; but relief cannot be denied to a person who is in a position to offer a reasonable explanation for his laches in asserting his rights. In the present case the petitioners were prevented from seeking redress at the hands of this Court by a promise, express or implied, that they would be allowed a plot of land in lieu of the land which was

being taken from them for a public purpose. Delay which has been caused by the conduct of the respondent cannot be attributed to the petitioners.

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Again, it is contended on behalf of the State that the petitioners cannot be allowed to secure a reference under section 18 of the Act of 1894, for they cannot be permitted to resile from their admission on the 23rd September, 1955, that they did not wish to proceed with their claim for compensation for the land, the brick-kiln and the bricks. This contention appears to me to be devoid of force, for they withdrew the reference under the erroneous belief that Government proposed to compensate them in kind if not in cash.

For these reasons I would accept the petition, set aside the order of the Collector and direct that a reference be made to the District Judge under the provisions of section 18 of the Act of 1894. There will be no order as to costs.

FULL BENCH

Before Bhandari, C. J., Chopra and Mehar Singh, JJ.

PT. RAM PARKASH,—*Defendant-Appellant.*

versus

SHRIMATI SAVITRI DEVI,—*Plaintiff-Respondent.*

Regular First Appeal No. 203 of 1949.

Hindu Married Women's Right to Separate Residence and Maintenance Act (XIX of 1946)—Section 2—Whether a Hindu wife is entitled to claim separate residence and maintenance on the ground that her husband had married a second wife when the second marriage took place before the passing of the Act—Act, whether retrospective—Hindu Adoption and Maintenance Act (LXXVIII of 1956)—Section 18—Whether retrospective—Change in law during the pendency of the appeal—How far to be taken into consideration for the decision of the appeal—Marriage according to

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