permissible. In this aspect of the matter, the case of the assessee requires reconsideration in so far as the levy of tax at the rate of 10 per cent upon the portion of taxable turnover of baled cotton pertaining to hessian and *bardana* is concerned. The assessee is liable to be charged on hessian and *bardana* without bifurcation and at the rate at which cotton has been charged. The part of the assessment order relating to the levy of tax on hessian and *bardana* at 10 per cent is quashed. The rest of the order will remain intact. Respondent No. 1 directed to reconsider the levy of tax at the rate of 10 per cent in respect of hessian and *bardana* without its bifurcation after giving an opportunity of hearing to the petitioner.

(47) Subject to the direction given above, Writ Petitions Nos. 3838, of 1968, 317, 651, 2092, 2093. 2300, 2500 and 2918 of 1969, 68, 543, 1058, 2466, 2467, 2468 and 2469 of 1970 are dismissed. There will be no order as to costs.

D. K. MAHAJAN, J.—I agree.

B. R. TULI, J.—I agree.

K.S.K.

FULL BENCH

Before Harbans Singh, C.J., Gurdev Singh and Prem Chand Jain, JJ.

GRAM PANCHAYAT, MURTHAL,—*Petitioner.*

versus

THE LAND ACQUISITION COLLECTOR,—*Respondent.*

Civil Revision No. 732 of 1970.

May 27, 1971.

Land Acquisition Act (1 of 1894)—*Section* 18(2)—*Limitation Act* (*XXXVI of* 1963)—*Sections* 12 *and* 29—*Application for reference under section* 18(2)—*Computing the period of limitation for—Time spent in obtaining the copy of the award—Whether to be excluded—Such application—Whether an application for setting aside the award as envisaged by section* 12(4), *Limitation Act.*

Held, that under sub-section (2) of section 12 of Limitation Act, a party is entitled to deduct time requisite for obtaining a copy of the decree,

sentence or order appealed from or sought to be revised or reviewed in three cases, viz. (1) an appeal, (2) an application for leave to appeal and (3) an application for revision or for review of a judgment. This sub-section does not speak of an application to make a reference as envisaged under section 18 of the Land Acquisition Act. It will be doing violence to the language of the statute if under sub-section (2) of section 12 of Limitation Act, even the application for making reference under section 18 of Land Acquisition Act is also to be excluded especially when the Legislature thought it proper to specify the three types of cases to which that sub-section was to apply. Hence an applicant is not entitled to exclude the period taken in obtaining a copy of the award while computing the period of limitation laid down under sub-section (2) of section 18 of the Land Acquisition Act.

(Para 4)

Held, that the scope of reference under section 18 of the Land Acquisition Act, is limited only to four points, viz., objections relating to measurement of land, amount of compensation, the person to whom it is payable, and the apportionment of the amount among the persons interested. The application has to be made within the period of limitation specified in the proviso of this section. The only remedy for a person interested who is dissatisfied with the Collector's award, is to apply for a reference under section 18. The Act has created a special jurisdiction and provided a special remedy for persons aggrieved with anything done with the exercise of that jurisdiction. The Collector's award though conclusive against the Government, is subject to the landowner's right to have the matter referred to the Court . On plain reading of this section, it is clear that an application under section 18 of the Act requiring the matter to be referred by the Collector to the Court is not an application to set aside an award as envisaged under sub-section (4) of section 12 of the Limitation Act. (Paras 15 and 16)

Case referred by the Hon'ble the Chief Justice Mr. Harbans Singh on 27th November, 1970 to a Full Bench for decision of an important question of law involved in the case. After deciding the question the Full Bench consisting of the Hon'ble the Chief Justice Mr. Harbans Singh, the Hon'ble Mr. Justice Gurdev Singh and the Hon'ble Mr. Justice Prem Chand Jain sent back the case to the Single Bench on 27th May 1971 for final disposal of the case.

Petition under Section 115 of the Code of Civil Procedure, 1908, for revision of the order of the Land Acquisition Collector, Directorate of Urban Estate, Haryana, Chandigarh, dated 25th May, 1970, filing application having been received after the expiry of time limit.

ANAND SWAROOP, I. S. BALHARA, R. S. MITAL AND S. N. ASHRI, ADVOCATES for the petitioner.

G. C. MITAL AND S. N. GARG, ADVOCATES, for the respondent.

JUDGMENT

P. C. JAIN, J.—The question that has been referred by my Lord, the Chief Justice, for our decision, is in the following terms :—

> "Is an applicant entitled to exclude the period taken in obtaining a copy of the award while computing the period of limitation laid down under sub-section (2) of section 18 of the Land Acquisition Act ?"

(2) It was contended by Mr. Anand Swaroop, learned counsel, that the petitioner was entitled to claim exclusion of time taken for obtaining the copy of the award. Reliance in support of his contention was placed on the two provisions of the Indian Limitation Act (hereinafter referred to as the Limitation Act), viz., sub-section (2) of Section 12 and section 29, in addition to the judicial pronouncements of different High Courts. On the other hand it was contended by Mr. Mital, learned counsel for the respondent that the scope of sub-section (2) of section 12 of the Limitation Act was limited and that section 29 could not in turn extend or enlarge its scope so as to include even an application of reference to be made under section 18 of the Land Acquisition Act (hereinafter referred to as the Act).

(3) After giving my thoughtful consideration to the entire matter, I find myself unable to agree with the contention of the learned counsel for the petitioner. The relevant provisions of the Limitation Act are in the following terms :—

> "12. (1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.
>
> (2) In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.
>
> (3) Where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order, the time requisite for obtaining a copy of the judgment on which the decree or order is founded shall also be excluded.

(4) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

Explanation.—In computing under this section the time requisite for obtaining a copy of a decree or an order, any time taken by the Court to prepare the decree or order before an application for a copy thereof is made shall not be excluded.

29(2) Where any special or local law prescribed for any suit, apeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

(4) Sub-section (2) of section 29 makes the provisions of sections 4 to 24, in so far as and to the extent to which they are not expressly excluded by any special or local law, applicable to a suit, appeal or application for which a different period of limitation is prescribed under any special or local law. The Act is a special law and therefore section 12 would be applicable. Under sub-section (2) of section 12, a party is entitled to deduct time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed in three cases, viz., (1) an appeal, (2) an application for leave to appeal and (3) an application for revision or for review of a judgment. This sub-section does not speak of an application to make a reference as envisaged under section 18 of the Act. In my view it will be doing violence to the language of the statute if under sub-section (2) of section 12 even the application for making reference under section 18 is also to be excluded especially when the Legislature thought it proper to specify the three types of cases to which that sub-section was to apply.

(5) It was sought to be argued by Mr. Anand Saroop, Senior Advocate, learned counsel, that in the cases falling under any special or local law, benefit of sub-section (2) of section 12 would be given in respect of any 'suit, appeal or application' and its scope could not

be restricted only to the cases specified therein, that is, an appeal, an application for leave to appeal or an application for revision or for review. If the interpretation, as desired by the learned counsel for the petitioner is put, then it is bound to lead to confusing results. Such an interpretation, if put, would mean adding something in the statute. It is a well-known principle of interpretation that nothing is to be added to a statute unless there are adequate grounds to justify the inference that the Legislature intended something which it omitted to express. Sub-section (2) of section 29 only describes the proceedings to which sections 4 and 24 are made applicable provided they happen to apply; but I am afraid, I am unable to subscribe to this view that in enacting sub-section (2) of section 29, the intention of the Legislature was to enlarge the scope of sub-section (2) of section 12 or of any other provision of the Limitation Act which has been made applicable by virtue of that sub-section. In my view, there is no escape from this conclusion that the only object of section 29(2) was to make sections 4 to 24 applicable when computing the period of limitation under a special or local law exactly in the same manner as they would be applicable when computing the period of limitation for similar proceedings under the general law which would be governed by the provisions of the Indian Limitation Act.

(6) At this stage reference may be made to the cases on which reliance was placed by Mr. G. C. Mittal, learned counsel, and which support the view I have taken. The first case is a Division Bench decision of the Bombay High Court in *Khashaba Daji Shinde* v. *M. V. Hinge Special Land Acquisition Officer and others* (1). In that case exactly similar question was raised, viz., whether a person applying to the Collector to make a reference under section 18(1) of the Act could claim exclusion of the time taken for obtaining copies of the award in respect of which he applied that a reference should be made and after reviewing various judicial pronouncements, Kotwal, J., speaking for the Court, observed as follows :—

> "Thus sub-section (2) of section 29 makes the provisions of section 12 of the Limitation Act applicable to applications of every kind under any special or local law. The Land Acquisition Act is a special law and, therefore, by virtue of section 29(2) section 12 would apply. Section 29(2) speaks generally of all applications but when we turn to the provisos of section 12, we find that sub-section (2) speaks of the

(1) I.L.R. 1965 Bom. 831.

period of limitation prescribed for three things, viz. (1) An appeal; (2) an application for leave to appeal and (3) an application for revision or for review of a judgment. It is only in respect of the three categories of proceedings mentioned that a party is entitled to exclude the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed. Thus sub-section (2) does not cover the case of an application to make a reference under section 18 for it cannot by any stretch of language be held to be either an application for leave to appeal or an application for review of judgment. Therefore, in terms sub-section (2) of section 12 cannot apply."

(7) The next case to which reference may be made is a Full Bench decision of the Allahabad High Court in *Gopaldas Saravdayal* v. *Commissioner of Sales Tax, U.P.* (2). In that case the question that was involved was whether in computing the period of 60 days within which an application must be made under sub-section (1) of section II of the U.P. Sales Act, 1948 (as in force in the year 1952), an assessee is not entitled to exclude the time requisite for obtaining a copy of the order under section 10(3). This question was answered in the negative and V. Bhargava, J., speaking for the Court, observed thus :—

"To me, it appears that all that section 29 was intended to do was to make sections 4, 9 to 18 and 22 of the Indian Limitation Act applicable when computing the period of limitation under a special or local law exactly in the same manner as they would be applicable when computing the period of limitation for similar proceedings under the general law which would be governed by the provisions of the Indian Limitation Act. There appears to be no justification for holding that section 29 enlarges the scope of the provisions made applicable by it to computation of period of limitation prescribed under a special or local law beyond the scope plainly laid down in those provisions when they are applied for the purpose of computing the period of limitation under the Indian Limitation Act itself. I entirely agree with the views, expressed by my brother Desai, J., in *Ram Singh and others* v. *Panchayati Adalat and others* (3),

(2) (1956) 7 S.T.C. 360.
(3) A.I.R. 1954 All. 252.

while dealing with the question whether the time taken in obtaining a copy of the order of the Panchayati Adalat can be excluded under sub-section (2) of section 12 of the Indian Limitation Act when computing the period of Limitation of 60 days prescribed for an application under section 85 of the U.P. Panchayat Raj Act, to the effect that

'The Court must have regard to the provisions of the whole of the section and must apply them but only so far as they can be applied. The Court is not required or authorised to make any alterations in the provisions in order to make them applicable, if otherwise they would not be applicable, it is not required or authorised to apply only their principle or analogy. It must be borne in mind that section 29(2) makes applicable the provisions contained in several sections when the period of limitation prescribed for any suit, appeal or application is to be determined. It may be that in a certain case the provisions of one of those sections cannot be applied because it does not contain the facts to which the provisions of that section can be applied or, in other words, there may be a case in which though due regard is to be had to the provisions of one of those sections, no effect can be given to its provisions. In such a case, it is not competent to the Court to modify the language of the section in order to give effect to its principle or to apply it by way of an analogy.'

The wide interpretation sought to be put by learned counsel on the provisions of section 29, if considered with reference to all the provisions of the Indian Limitation Act made applicable by that section to the computation of period of limitation under any special or local law, will lead to startling results. Section 13 of the Indian Limitation Act, as already mentioned by me earlier, deals with the method of computing the period of limitation prescribed for any suit and lays down that the time, during which the defendant has been absent from British India and from the territories beyond British India under the administration of the Central Government or the Crown Representative, shall be excluded. If the submission of learned counsel about the scope of section 29 be accepted, section 13 of the Indian Limitation Act will have to be interpreted as laying down a rule for computing a period of limitation prescribed not only for a suit but for an appeal as well as an application when the suit, appeal or application happens to be under a special or local law. The effect of this interpretation on sub-section (2) of

section 12 itself may also be considered. If the period of limitation for a suit or an application other than an application for leave to appeal or an application for review of judgment has to be computed under the general law to which the Indian Limitation Act applies, the provisions of sub-section (2) of section 12 are clearly not applicable. On the other hand, on the interpretation of section 29 pressed before us, the provisions of sub-section (2) of section 12 would be applicable to any suit and any application including an application for leave to appeal and an application for review of judgment, provided the period of limitation has been prescribed by a special or local law. Generally, the period of limitation for an application to execute a decree or order of a civil Court falling under Article 182 of the Indian Limitation Act is computed from the date of the decree or order, except where special circumstances mentioned in the third column against that Article exist, and this period is three years unless a certified copy of the decree or order has been registered when it is six years. It is quite clear that, in computing this period of three years or six years from the date of the decree or order, the time spent in obtaining a copy of the decree or order will not be excluded under sub-section (2) of section 12 of the Indian Limitation Act. Group (F) of the Fourth Schedule to the U.P. Tenancy Act, 1939, prescribes the period of limitation for execution of decrees of various types passed under that Act. In the case of an application for execution of a money decree under the U.P. Tenancy Act, the period is three years and is to be computed from the date of the final decree in the case. On the interpretation urged before us, it would have to be held that, in computing the period of limitation for an application for execution of a money decree under the U.P. Tenancy Act, the provisions of sub-section (2) of section 12 of the Indian Limitation Act would have to be applied and the time requisite for obtaining a copy of the final decree will be excluded. The circumstance that it may not be necessary to file a certified copy of the decree, when applying for execution, will be immaterial in view of the decision of their Lordships of the Privy Council in *J. N. Surty* v. *T. S. Chettyar Firm* (4), because a decree-holder may require a copy of the decree and judgment for purposes other than the filing of the copy at the time of making the application for execution. Their Lordships of the Privy Council held:—

> 'Section 12 makes no reference to the Code of Civil Procedure or to any other Act. It does not say why the time is to be excluded, but simply enacts it as a positive direction.

(4) (1928) L.R. 55 I.A. 161=A.I.R. 1928 P.C. 103.

If, indeed, it could be shown that in some particular class of cases there could be no object in obtaining the two documents, an argument might be offered that no time could be requisite for obtaining something not requisite. But this is not so. The decree may be complicated, and it may be open to draw it up in two different ways, and the practitioner may well want to see its form before attacking it by his memorandum of appeal.'

On this principle, a decree-holder executing his decree under the U.P. Tenancy Act may very well claim that he requires a copy of the decree in order to decide whether he should apply for execution and to choose the manner of executing the decree. He would then be entitled to claim that, under Section 29 of the Indian Limitation Act, the period requisite for obtaining the copy of the decree should be excluded when computing the period of limitation for that application prescribed by the U.P. Tenancy Act which is clearly a special and local law. I am unable to accept that the legislature, in using the words "any suit, appeal or application" in section 29, could have intended to so enlarge the scope of sub-section (2) of section 12 as to make it applicable in the case of an application for execution under the U.P. Tenancy Act or such other special or local laws while sub-section (2) of section 12 was clearly so worded as not to be applicable to an application for execution under the general law, the period of limitation for which is prescribed by the Indian Limitation Act itself. The interpretation, which thus seeks to widen the scope of sub-section (2) of section 12 in its applicability to computation of periods of limitation prescribed by a special or local law, cannot be said to be in conformity with the intention of the legislature in enacting section 29, which, obviously, was to give the benefit of this provision to a person whose appeal or application for leave to appeal or application for review of judgment was governed by limitation prescribed by the special or local law and not by the general law incorporated in the Limitation Act."

(8) The other case to which reference may be made is of the Chief Court of Punjab, reported as *Bhagwan Das* v. *The Collector, Lahore*, (5), wherein it was held as under :—

"As, therefore, the words of section 18(1) of Act 1 of 1894 and of section 12 of the Limitation Act are perfectly clear and

(5) 79 P.R. 1904.

unambiguous, and as in their plain ordinary sense the words employed in section 12 of the latter Act cannot be construed in such a forced manner as to cover the case of an application under section 18(1) of the former Act, we are compelled upon the authorities to hold that the application of the 2nd May, 1901, was at the time of presentation barred by time and as such was rightly dismissed by the lower Court."

A similar view was taken by a learned Judge of the Bombay High Court in *Jankibai Tukaram* v. *Nagpur Improvement Trust, Nagpur* (6), wherein it was held as under :—

"The Land Acquisition Act, which is a special law, prescribed for an application under section 18 a special period of limitation different from the period prescribed therefor by the First Schedule to the Limitation Act, and therefore, in determining such period of limitation the provisions contained in section 4, sections 9 to 18 and section 22 shall apply. One of these sections is section 12 of the Limitation Act, sub-section (2) of which reads as follows :—

'In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded.'

Reliance is also placed on *Jijibhoy N. Surty* v. *T. S. Chettyar Firm* (4), where it was held:

'Section 12, sub-section (2) of the Indian Limitation Act, 1908, which excludes from the period of limitation for appealing from a decree the time "requisite" for obtaining a copy of it, applies even when by a rule of the High Court a memorandum of appeal need not be accompanied by a copy of the decree.'

(6) A.I.R. 1960 Bom. 499.

But in my opinion, sub-section (2) of section 12 refers to an appeal, an application for leave to appeal and an application for review of judgment. An application for reference under section 18 of the Land Acquisition Act does not therefore attract the application of sub-section (2) of section 12 of the Limitation Act.

(12) Reliance is also placed on sub-section (4) of section 12 of the Limitation Act which reads as follows :

> 'In computing the period of limitation prescribed for an application to set aside an award the time requisite for obtaining a copy of the award shall be excluded,'

and on *Burjorjee* v. *Special Collector, Rangoon* (7), where it was held that section 12(4) of the Limitation Act applies to an application to the Collector to refer a matter to the Court and the applicant is entitled to exclude the time requisite for obtaining the copy of the Collector's award. With great respect, I dissent from this view because sub-section (4) of section 12 refers to applications to set aside an award such as an award in arbitration proceedings and an application for reference under section 18 of the Land Acquisition Act can never be treated as an application to set aside an award. Even if the reference is accepted the award may be only modified. An application for reference under section 18 of the Act cannot therefore be treated as an application to set aside an award. Learned counsel for the non-applicant has cited *Secretary of State* v. *Karim Buxe*, (8), in support of his contention that time taken to obtain copies of an order under the Land Acquisition Act cannot be excluded for the purposes of computing the period of six weeks prescribed by the proviso to section 18 of the Act."

(9) The last case to which reference may be made is a Division Bench decision of this Court in *Hari Krishan Khosla* v. *State of Pepsu* (9), wherein it was held as under :—

> "On the second question, there does not seem to be much difficulty. The petitioner claims deduction of the time spent in obtaining certified copies of the award under section 12. The first question that has to be determined in this connection is whether section 29 of the Limitation Act would

(7) A.I.R. 1926 Rang. 135.
(8) A.I.R. 1939 All. 130.
(9) A.I.R. 1958 Pb. 490.

be applicable in the present case. Section 29(2) is in the following terms:—

'Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such periods were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law:

(a) the provisions contained in section 4, sections 9 to 18 and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.'

It is claimed that section 12 would be applicable inasmuch as it is not expressly excluded by the special or local law, namely, the Act. In *Nafis-ud-din* v. *Secy. of State* (10), it was held that section 12 of the Limitation Act did not apply in computing the period of limitation prescribed for an application under sub-section (1) of section 18 of the Land Acquisition Act and, therefore, the time requisite for obtaining a copy of the award could not be deducted.

This decision, however, is not very helpful as it does not discuss the matter at any great length. In *Kashi Prasad* v. *Notified Area Mahoba* (11), it was decided that section 29 of the Indian Limitation Act did not apply to an application under section 18 of the Land Acquisition Act and the Lahore case was followed. Assuming without deciding that section 12 applies, which was in fact applied in *H. N. Burjorjee* v. *Special Collector of Rangoon* (7), the benefit of section 12 cannot be given in the present case. The only sub-section of section 12, under which the present case can fall, is (4) which is in the following terms :—

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.'

(10) I.L.R. 9 Lah. 244—A.I.R. 1927 Lah. 858 (2).
(11) I.L.R. 54 All. 282—A.I.R. 1932 All. 598.

It cannot be regarded that an application to make a reference under section 18 of the Land Acquisition Act is equivalent to an application to set aside an award. The Collector is only to make the reference in which the award may be confirmed or a different award may be given by enhancing the amount of compensation.

No case has been brought to our notice which has authoritatively considered this question and has held that section 12(4) would cover the case of an application made under section 18 of the Land Acquisition Act."

(10) Now I advert to the cases to which reference was made by Mr. Anand Saroop, learned counsel. The first case is a Division Bench decision of the Lahore High Court in *Muhammad Hayat Haji Muhammad Sardar* v. *Commissioner, Income-tax Punjab & N.W.F.P.* (12). The facts of that case were that an application under section 66(3) of the Income-tax Act was presented praying that the Income-tax Commissioner be required to refer certain question of law to the High Court which arose from his order, dated 17th August, 1927, passed under sub-section (2) of section 66. Under sub-section (3), the petition could have been filed within six months from the date of the service of the order. A question arose whether the petitioner was entitled to deduct time spent in obtaining the copy of the order of the Income-tax Commissioner or not, while filing application under section 66(3). The learned Judges relying on section 29 of the Limitation Act, held that "if the days spent in obtaining the copy be excluded, as they should be under section 29, Limitation Act (as amended in 1922), the petition is within time." This decision of the Lahore High Court is hardly of any assistance because there is no discussion nor the matter was considered after taking into consideration section 12 of the Limitation Act.

(11) The next case on which reliance was placed, is of the Patna High Court in *Mohan Lal Hardeo Das* v. *Commissioner of Income-tax, Bihar & Orissa* (13). That case was also under the Income-tax Act and the learned Judges, on the point which has been debated before us, held as follows :—

"Thus, it will not, I think be straining the law to hold that the main principle laid down in section 12, namely, that the

(12) A.I.R. 1929 Lah. 170.
(13) A.I.R. 1930 Pat. 14.

period for obtaining copies shall be excluded in computing the period of limitation in certain cases has been made applicable by section 29 in the case of a suit, appeal or an application under the special law for which a period of limitation has been prescribed and this will cover an application under section 66(2) and (3), Income-tax Act. In my judgment, technicalities apart, this will be the only reasonable way of giving effect to the intention of the legislature. This is the view which seems to have been taken by the Lahore High Court in the case to which I have referred just now and which was a case in which the question of limitation arose in connection with an application made to the High Court under section 66, clause 3. This is also substantially the view of the Rangoon High Court and it finds no little support from the line of reasoning which was adopted in many cases which were decided before the passing of Act 10 of 1922. In those days, there was nothing in section 29, Limitation Act, or anywhere else to make the general provisions of the Limitation Act as found in sections 4, 9 to 18 and 22 applicable to any of the special laws or enactments. It was, however, held in a number of cases that these general provisions would apply to a special enactment where the Act is not a complete code in itself."

With utmost respect to the learned Judges and for the reasons recorded in the earlier part of my judgment, I do not agree with this view.

(12) The other case to which reference may be made is of the Orissa High Court in *Satrughan Mall* v. *Revenue Commissioner, Orissa* (14). The learned Judges in that case have relied on the decisions of the Lahore and Patna High Courts, referred to above, and that of the Rangoon High Court in *Ramanath Reddiar* v. *Commissioner, Income-tax* (15), and held as under :—

"The second objection raised by Mr. Mohapatra is more difficult to meet. Sub-section (2) of section 12, Limitation Act is, in terms, limited to (i) appeal, (ii) application for review

(14) A.I.R. 1956 Orissa 34.
(15) A.I.R. 1928 Rang. 152.

of judgment and (iii) application for leave to appeal. On a strict construction, therefore, that sub-section cannot help the petitioner in respect of an application under section 29(2), Orissa Agricultural Income-tax Act to state a case for the decision of the High Court. But we notice that the corresponding provision in section 66, Indian Income-tax Act as it stood prior to the amendments made in 1930 by Act 22 of 1930 had been given a liberal construction by three High Courts (See—'*Mohanlal* v. *Commissioner, Income-tax B & C*' (13) '*Ramanath Reddiar* v. *Commissioner, Income-tax* (15), and '*Md. Hayat Haji Md.* v. *Commissioner, Income-tax, Punjab & NWFP* (12).

In all those decisions, it was held that section 12(2), Limitation Act would apply in respect of an application to the Income-tax authority to state a case under section 66(1), Income-tax Act. Doubtless, so far as income-tax law was concerned, the Legislature gave recognition to these decisions by inserting section 67-A by the amending Act 22 of 1930. But the reasons given by the learned Judges for giving such a liberal construction seem to be quite convincing and may be adopted in the present instance also." Again, with utmost respect, I do not agree with this view.

(13) The only other decision to which reference need be made is that of the Supreme Court in *Additional Collector of Customs, Calcutta, and another* v. *M/s. Best and Co.* (16). The learned counsel placed reliance on this decision of the Supreme Court for the proposition that under section 18(2) of the Act, grounds in detail are required to be given in the application to be made to the Collector for filing the reference, that copy of the award is essential before such grounds can be given, and that for these reasons the time spent in obtaining the copy of the award can legally be deducted. This decision of their Lordships of the Supreme Court, in my view, does not benefit the petitioner. The point with which we are concerned, was not the subject-matter of decision in that case. The question in that case was whether the petitioners who filed an application for a certificate under Article 133 of the Constitution of India, were entitled to deduct time spent in obtaining the copy of the judgment and the order irrespective of the fact that it was not necessary to annex those copies with the application filed under Article 133. It was on that question that their Lord

(16) A.I.R. 1966 S.C. 1713.

ships held that the petitioner was entitled to deduct time spent for obtaining the certified copies of the judgment and order. As earlier observed, on the facts of the case in hand that decision of their Lordships of the Supreme Court is of no help to the petitioner. Here we are concerned whether the petitioner can take benefit of sub-section (2) of section 29 of the Limitation Act so as to enlarge the scope of sub-section (2) of section 12.

(14) From the discussion above, I have no hesitation in holding that while computing the period of limitation for making an application for reference, time spent in obtaining the copy of the award cannot be deducted and that an application for making reference under section 18 is not covered by the provisions of sub-section (2) of section 18.

(15) In the alternative, it was sought to be argued by Mr. Anand Swaroop, learned counsel, that even if the case of the petitioner did not fall under sub-section (2) of section 12, then also the petitioner was entitled to deduct time for obtaining a certified copy of the award as his case fell under sub-section (4) of section 12. In substance, the contention of the learned counsel was that in reality, application under section 18 of the Act was an application for setting aside the award of the Collector and hence sub-section (4) of section 12 was attracted. After giving my thoughtful consideration to the entire matter, I find myself unable to agree with this contention of the learned counsel. Section 18 which prescribes procedure for reference, is in the following terms :—

> "18(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."

The scope of reference under section 18 is limited only to four points, viz., objections relating to measurement of land, amount of compensation, the person to whom it is payable, and the apportionment of the amount among the persons interested. The application has to be made within the period of limitation specified in the proviso to this section. The only remedy for a person interested who is dissatisfied with the Collector's award, is to apply for a reference under section 18. The Act has created a special jurisdiction and provided a special remedy for persons aggrieved with anything done with the exercise of that jurisdiction. The Collector's award, though conclusive against the Government, is subject to the landowners' right to have the matter referred to the Court.

(16) On the plain reading of this section, it cannot be held that the application made to the Collector is for setting aside an award. It is only an application requiring the matter to be referred by the Collector to the Court for judicial ascertainment of the value. The Court on receiving the reference, proceeds in accordane with the provisions of the Act to determine the amount of compensation to be awarded for land acquired and gives an award in the form prescribed under section 26 which reads as under :—

"26. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any), respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908."

The Court does not set aside the award of the Collector; but gives its own judicial verdict on the question of compensation. At the best it may be argued that the award given by the Court results in modification of the award given by the Collector; but by no stretch it can be held that the award given by the Court on reference results in setting aside of the award of the Collector. Thus, I hold that an application requiring the matter to be referred by the Collector to the Court, is not an application to set aside an award as envisaged under sub-section (4) of section 12 of the Limitation Act.

(17) For the reasons recorded above, the question is answered in the negative and it is held that an applicant is not entitled to exclude the period taken in obtaining a copy of the award while computing the period of limitation laid down under sub-section (2) of section 18.

HARBANS SINGH, C.J.—

(18) I agree that in view of the wording of section 12 of the Limitation Act and section 18 of the Land Acquisition Act, and the preponderance of the judicial view as noticed by my learned brother, P. C. Jain, J., the answer to the question has to be given in the negative. The matter will now go back to the learned Single Judge with the answer as above.

Gurdev Singh, J.—I also agree.

K.S.K.

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